S. Hrg. 98-42

LABOR MANAGEMENT RACKETEERING ACT OF 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 336

TO INCREASE THE PENALTIES FOR VIOLATIONS OF THE TAFT-HARTLEY ACT, TO PROHIBIT PERSONS, UPON THEIR CONVICTIONS OF CERTAIN CRIMES, FROM HOLDING OFFICES IN OR CERTAIN POSITIONS RELATED TO LABOR ORGANIZATIONS AND EMPLOYEE BENEFIT PLANS, AND TO CLARIFY CERTAIN RESPONSIBILITIES OF THE DEPARTMENT OF LABOR

MARCH 15, 1983

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LABOR MANAGEMENT RACKETEERING ACT OF 1983

TUESDAY, MARCH 15, 1983

U.S. SENATE,
SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:32 a.m., in room SD-430, Dirksen Senate Office Building, Senator Don Nickles (chairman of the subcommittee) presiding.

Present: Senators Nickles, Hatch, and Grassley.

OPENING STATEMENT OF SENATOR NICKLES

Senator NICKLES. Good morning. Today's hearing is on Senate bill 336, the Labor Management Racketeering Act. This bill is identical to Senate bill 1785, which was introduced in the 97th Congress. The Labor Subcommittee held a hearing on S. 1785 on February 3, 1982, and the bill subsequently passed the Senate twice during the 97th Congress. I am extremely disappointed that the bill died in the House of Representatives and did not become public law last year.

The need for this legislation has been clearly established. Both the record during the 97th Congress detailing the abuses which this legislation seeks to correct and the events since then surrounding the Teamsters Union are indicative of the need for change in our labor laws. Senate bill 336 is certainly a step in that direction.

Senate bill 336 adds to and clarifies the list of crimes which disqualify certain persons from holding positions of trust with an employee benefit plan or in labor-management relations.

Further, the bill increases the period of time for which such a person is not allowed to serve in these positions from 5 years up to 10 years, and begins running on the date of the trial court conviction rather than the date of the last appeal.

This precludes someone found guilty of a felony from continuing to manage pension funds or a labor organization, or to engage in labor-management relations until he has exhausted all of his appeals, a process which can last for years. To soften this, all moneys due such persons are paid into escrow. If later found not guilty, such funds will be reimbursed.

Under current law, there is a loophole which permits officers, directors, and other members of the governing board of labor organizations who have committed certain crimes to remain employees of that labor organization in clerical or custodial positions.

This allows a convicted felon to retain the same pay and power by being classified as a clerk for payroll purposes. These are the kinds of laws which have outraged the people of this country.

The perceived duty of the Labor Department to actively pursue potential criminal activities in the labor-management or pension field has differed over the years. I am pleased that Secretary Donovan has already testified that under his direction, the Department will actively investigate criminal activities in the labor-management field. I look forward to further comments from the Labor Department today.

I also look forward to hearing from the Justice Department. Some opponents of Senate bill 336 maintain that current laws are adequate to combat the offenses targeted by this bill. These statutes, primarily on title IX of the Organized Crime Control Act of 1970, which is also known as Racketeer Influenced and Corrupt Organizations [RICO], and the Federal Probation Act, are within the jurisdiction of the Justice Department and will be discussed today.

Also, members of two Teamsters local will present their experiences in their respective locals.

Our first witness this morning is Senator Rudman who, along with Senator Nunn, has been instrumental in developing the background and the need for this legislation.

Mr. Rudman, we are pleased that you are here. Before you make your statement, I also want to commend Senator Hatch for his leadership as chairman of the full Labor Committee and for his help and assistance in our activities for the last 2 years, and also as a cosponsor of this legislation this year.

Senator Hatch, do you have any comments?

Senator HATCH. Thank you so much, Mr. Chairman.

For many of us in this room, today's hearing has a sense of deja vu to it because approximately 13 months ago, this subcommittee held a hearing on S. 1785, the Labor Management Racketeering Act of 1982.

As all of you know, despite the compromise worked out between the Republicans and the Democrats, despite the administration's vigorous lobbying on behalf of the legislation, and despite Lane Kirkland's and other labor leaders' strong endorsement, the very bill that we are considering today was buried in the House of Representatives on two separate occasions.

This summary treatment of the bill in no way diminishes the importance of today's hearing. Without question, labor management racketeering is one of the most sinister threats to the health and well-being of the trade union movement and to the men and women who work within that movement.

By siphoning off millions of dollars for bribes, payoffs, and kickbacks, organized crime is sapping our economy of the strength and resources vitally needed to increase productivity, generate employment opportunities, and provide promised pension benefits.

It is for these reasons that I am grateful that our distinguished subcommittee chairman, Senator Nickles, has acted so quickly on S. 336, the Labor Management Racketeering Act of 1983, which we both cosponsor. I also feel that Senators Nunn and Rudman deserve special recognition and commendation for their efforts. Because of their vigorous and tireless leadership of the permanent

Subcommittee on Investigations, we have a comprehensive record on union corruption as it exists today.

Criticism of this legislation traditionally has involved one of the following three arguments. First, it is alleged that the problem of union corruption and racketeering has been distorted; that there really have been only a few minor violations of union officials

Second, it is argued that this bill unfairly discriminates against union officers, treating them differently than convicted employer representatives. Finally, some contend that it unnecessarily penalizes innocent union officials who may inadvertently break some minor technicality.

I sincerely hope that today we can determine the veracity of these allegations. If they are true, we should take the necessary steps to insure that S. 336 is corrected. If they are not, then I hope those union officials who oppose the bill will discontinue their attempts to block passage of legislation that I believe is equitable and beneficial for and protective of the members of the trade union movement.

I feel that Congress simply has too much information before it to pretend that labor racketeering is a rare and isolated event. The hearings before the permanent Subcommittee on Investigations, together with the ones that I conducted before the full Labor and Human Resources Committee, provided numerous examples of illegal activity and the presence of organized crime in the labor relations field.

Recent hearings that I held concerning the Office of Organized Crime and Racketeering, which is a division of the Department of Labor's Office of the Inspector General, provided additional incidents of abuse and manipulation.

Since its establishment in 1978, this office alone has been responsible for 257 indictments, 172 convictions, with 52 individuals still awaiting trial as of January 1983. These statistics are by no means an adequate measure of all of the Government's antiracketeering activities, nor are they a complete record of all violations. They are simply exemplary of the problem that exists throughout this country.

I would like to make two of the documents that were submitted during this recent hearing part of the record today. Both provide a more detailed review of the activities of this office. Mr. Chairman, I would like for you to make them part of the record, at this point.

Senator NICKLES. OK.

[The following were received for the record:]

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

FACT SHEET

Office of Organized Crime and Racketeering

The Office of Organized Crime and Racketeering was organized in the Office of Inspector General when the Congress signed the Inspector General Act of 1978. From October 1, 1978, to September 30, 1982, the office has presented 80 cases to the Department of Justice for indictment. From these cases, 247 persons and 18 organizations have been indicted, resulting in 168 convictions, 41 acquittals, and 50 awaiting trial.

Historically the center for organized crime activity, New York City accounted for 70 indictments and 48 convictions, followed by the Newark area with 47 indictments and 31 convictions, Atlanta with 25 and 16, and Miami with 23 and 10. Major cases for some of the 18 field offices of the Office of Organized Crime and Racketeering are attached along with a statistical breakdown.

Special Agents of the Office of Organized Crime and Racketeering are assigned to work with the Department of Justice Strike Force. This relationship is especially important because, although the Special Agents have investigative authority, they lack the full enforcement authority that would allow them to make arrests, execute search warrants, carry arms, and conduct complete undercover operations; they must rely on the other members of the Strike Force for these activities. Nevertheless, in spite of tne handicaps faced by the lack of this authority, the Special Agents have conducted investigations of some major organized crime members' involvement in schemes that include major violations of labor law, such as embezzlement, extortion, kickbacks, and illegal payments.

International Union and Officials Indicted in Construction Union Probe

Atlanta, Georgia - A Federal Strike Force project, the Atlanta Construction Union Probe, has resulted in the indictment of the Tile, Marble, Terrazzo Finishers, Shopman and Granite Cutters International Union; its general president and secretary-treasurer, Pascal DiJames; and its first vice president, Frank Irrabino, on charges of violating federal labor statutes.

On January 21, 1982, a Federal grand jury in Atlanta charged DiJames and Irrabino with conspiring to make false entries on documents upon which the Union's annual financial reports to the U.S. Department of Labor are based.

DiJames was also charged with failing to file annual financial reports to the Department of Labor concerning the imposition of a trusteeship over local 167 in Atlanta. He and the union were charged with transferring about $92,759.88 of local 167's funds to the International by diverting them into an account maintained and controlled by the International.

Two International supervisor appointees of DiJames--Raymond Smith, Jr., and Jerry Carter--both pled guilty to labor law violations concerning their activities in Atlanta. Smith received 2 years' probation and Carter 3 years' probation.

Trial for the International and its indicted officials is scheduled for October, 1982. The investigation was conducted by Strike Force Agents from the Office of Organized Crime and Racketeering and the Federal Bureau of Investigation in Atlanta.

# # #

Laborers Local 210 Official, Cohorts Awaiting Trial for Minority "Front" Scam

Buffalo, New York - One of the most powerful figures in Laborers Local 210, Ronald M. Fino, is awaiting trial after being indicted in November 1981 on charges of conspiracy to defraud the government, mail fraud, and making false bank loan applications.

Fino is business agent for the local and son of alleged organized crime underboss and ranking member Joseph Fino. Three co-defendants are: Thomas D. Giammaresi, secretary-treasurer of Onyx Construction and Equipment Corporation and a retired Buffalo police officer who, for 10 years on the police force, also worked as the personal chauffeur for alleged major organized crime figure Sam Pieri; Carl J. Mastykarz, former official of the M & T Bank, which held some $1 million in Laborers' union savings accounts; and William Sterling, a member of local 210 who acted as the president and 51 percent owner of Onyx.

The indictment, following an investigation by Special Agents from the Office of Organized Crime and Racketeering and the Postal Inspection Service, charges that the defendants conspired to hinder the administration of a government agency --the Urban Mass Transit Administration of the U.S. Department of Transportation--by fraud. In 1978, the agency approved federal funding for construction of a rapid transit system in Buffalo. Under the funding agreement, 10 percent of the overall construction was to be set aside for businesses controlled and beneficially owned by minority persons.

The defendants' scheme involved installing Sterling, a minority member, as president and major stockholder of Onyx, a "front" minority business, in order to obtain construction sub-contractors as a certified minority business enterprise. In reality, Onyx was controlled by Fino, Fino's Sno-Go Plowing corporation, Giammaresi, and other majority members. It is also charged that more than $3000,000 in financing for Onyx and $2000,000 for Sno-Go was arranged, with the help of Mastykarz, through the submission of false and fraudulent bank loan applications and financial statements.

# # #

ILU Local 1947 Members Convicted of Narcotics Smuggling

Concord, New Hampshire - Eight members of the International Longshoremen's Union Local 1947 of Portsmouth, New Hampshire, and a commercial fisherman pled guilty on January 16, 1981, to charges of federal narcotics violations related to the smuggling of large amounts of marijuana by boat through Portsmouth Harbor in 1979.

The defendants included Richard Moore, president of the local and trustee of the local's pension and welfare funds, and Robert Moore and Stanley Lewis, both members of the local's executive board. Except for Richard Moore, who was sentenced to 4 years in prison, the other defendants received 5 year suspended sentences and a fine of $5,000 each. A tenth defendant, Harry Ross, a boat captain, fled after the indictment was returned.

The investigation disclosed that two fishing boats loaded with marijuana had been unloaded on the docks by local 1947 union members into trucks owned by Richard Moore's trucking company.

The investigation began in May 1979 when Strike Force Agents of the Office of Organized Crime and Racketeering in Boston, Massachusetts, received allegations of labor violations and violence in the New Hampshire docks. This investigation coincided with a separate investigation by the Drug Enforcement Administration (DEA) that resulted in the conviction of three local 1947 union members for drug smuggling. Because there were allegations that Richard Moore and other union members were involved in a scheme by organized crime figure Frank Le Pere to import illegal drugs, the DEA joined the investigation along with the U.S. Customs Service, the New Hampshire State Police, the Portsmouth and Dover Police Departments, and the grand jury.

The lengthy investigation disclosed embezzlement of the local 1947 pension and welfare funds and evidence of illegal payments. However, based upon a plea agreement, defendants were allowed to plead guilty to a narcotics violation in exchange for the government dropping any charges of violations of federal labor statutes.

The other convicted defendants were local 1947 members Robert Moore, Jr., William Roach, Sr., William Roach, Jr., Donald Cooney, and Basil Varney, and Boat Captain Floyd Annis.

# # #

Distillery Workers
International Official
Sentenced in Two Separate Cases

Chicago, Illinois - John F. Duff, vice president of the Distillery, Wine and Allied Workers International Union, Englewood, New Jersey, has been sentenced in two separate trials related to investigations by Special Agents of the Office of Organized Crime and Racketeering in Chicago, Illinois, and Detroit, Michigan.

In the first case, Duff, who is a salaried official of three Chicago local unions in addition to his position with the International, had been indicted in September 1981 with co-defendant Howard J. Hansen, president of local union 3 in Chicago, on charges of embezzlement.

On February 1, 1982, after 4 days of trial and one-third of the government's case presented, Duff pled guilty to two counts of the indictment and agreed to immediately resign all fiduciary positions with all labor unions and affiliated pension, health and welfare plans. Co-defendant Hansen pled guilty to a one-count information and agreed to resign all fiduciary positions immediately prior to trial.

Duff, who had been charged with embezzling $94,064 from two locals, was sentenced to 6 months in prison on a work release program, 5 years' probation, and fined $5,000. Hansen had been charged with embezzling $27,192 from two locals and was sentenced to 3 years' probation and fined $1,000. The amounts embezzled included unauthorized salary increases, year-end bonuses and expense payments. They had also taken and converted dues check-off money from one local to another.

In the Detroit case, a spin-off from the Chicago case, Duff and Daniel Triglia, president of Distillery Workers Union, Local 42, had been charged with 15 counts of embezzlement of union funds, obstruction of justice, and falsification of union records. Duff pled guilty on July 8, 1982, to one count of embezzling $4,500 and one count of accepting an illegal payment, and was sentenced on August 19 to 2 years in prison.

Triglia pled guilty on August 10 to two counts of embezzling $11,000 from local 42 in the form of unauthorized Christmas bonuses for himself, Duff, and three other union officials and $2,844 he and Duff kept after selling some of local 42's office furniture and equipment. Triglia was sentenced to two years imprisonment in September 1982.

Three Officials of Three Union
Locals Sentenced for Embezzlement

Cleveland, Ohio - Three union officials of three Cleveland union locals were convicted on April 21, 1981, and sentenced on charges of conspiracy and embezzlement of about $4,139 of union funds over a three year period while they held offices.

Louis P. D'Ambrosia, who was president of Toy Plastics and Novelty Workers Local 55 and business agent for Metal Processors Local 56 and Private Police and Security Guards Local 57, was sentenced to 3 years' probation and barred from office. He was also a representative to the Executive Board of the International Union of Allied Novelty and Production Workers.

Edward J. Wettrick, Jr., served as secretary-treasurer of local 55, was employed as an organizing agent for locals 56 and 57, and was the trust administrator of locals 55 and 56's Joint Health and Welfare Fund. He was sentenced to 3 years' probation.

Edward D'Ambrosia, brother of Louis D'Ambrosia, was president of locals 56 and 57 and trust administrator of locals 55 and 56's Joint Health and Welfare Fund. He received 3 years' probation and was barred from office.

The investigation, which was conducted by the Office of Organized Crime and Racketeering, found evidence that the embezzled union funds were used for unauthorized Christmas bonuses and compensation for personal vacations, double payments for airfare and hotel expenses, and payment of personal and fictitious expenses for Louis D'Ambrosia and Wettrick. All three were also charged with conspiring to make false statements and entries on the unions' annual financial disclosure reports filed with the U.S. Department of Labor.

The investigation also found evidence that all three were heavily involved with organized crime in the Cleveland area.

# # #

Steelhauling Firm and Owners Convicted of Violating Federal Laws

Detroit, Michigan - A steelhauling firm, the S & Vee Cartage Company, Inc., and its owners were sentenced on December 17, 1981, in Detroit after convictions in November of falsifying statements required by the Employee Retirement Income Security Act, mail fraud, and conspiracy.

Silverio Vitello, president and chief operating officer of the corporation, received 2 years on each of three counts to be served concurrently and a fine of $10,000. Anna Vitello, vice president and sole shareholder, received 2 years on each of four counts to be served concurrently and a fine of $11,000. The corporation received fines on 10 counts totaling $25,000.

The investigation by the Office of Organized Crime and Racketeering led to charges that the defendants planned and carried out a scheme that denied required contributions to the Michigan Conference of Teamsters Welfare Fund and the Teamsters Central States Pension Fund and that deprived S & Vee employees of health and welfare coverage and pension credits.

From 1977 through 1979, the Vitellos attempted to increase the profitability of the company by regularly submitting false employer contribution reports, which understated the company's payments due to the Welfare and Pension Funds. The scheme netted approximately $63,000 for the company in additional profits over the period covered by the indictment.

The S & Vee Company is one of five companies controlling the Detroit steelhauling industry. All five companies are believed by law enforcement authorities to be dominated by organized crime interests. Silverio Vitello is an associate of, and has common business interests with, Vito Giacalone, a major Detroit organized crime leader.

# # #

Officials of Two Teamsters Locals Found Guilty After Dismissal of First Indictment by District Court

Los Angeles, California - Four officials of Teamsters Locals 389 and 186 in Los Angeles were convicted on August 13, 1982, of embezzlement of union funds, racketeering, and interstate travel in aid of racketeering.

In September 1980, the U.S. District Court for the Central District of California dismissed a 10-count indictment against Stan Thordarson, secretary-treasurer of local 389; Craig Dunbar, business agent of local 389; Martin Fry, secretary-treasurer of local 186; and Martin Salgrado, trustee of local 186. The District Court used the authority of a 1973 case, U.S. v. Enmons, that it interpreted as precluding "federal prosecution for violent activity which occurs during the course of a legitimate labor dispute" to dismiss the main racketeering charges.

On May 20, 1981, the Ninth Circuit Court of Appeals reversed the District Court Order and the defendants were reindicted in January 1982.

Local 186 had been elected in July 1978 as the bargaining agent for employees of Redman Moving and Storage Company in Thousand Oaks, California. When Redman refused to recognize the union, local 186 enlisted the aid of local 389 to strike against the company. Strike Force Agents from the Office of Organized Crime and Racketeering and the Bureau of Alcohol, Tobacco and Firearms found that between July and December 1978, Redman's truck fleet was vandalized, including the burning of two trucks in Arizona and Connecticut. Explosives had been used to damage the vehicles and union funds had been used to travel to conduct the vandalism.

# # #

Eight Convicted in Laborers Insurance Kickback Scheme Receive Heavy Sentences

Miami, Florida - An insurance kickback scheme involving various pension and welfare plans of the Laborers International Union of North America has resulted in the convictions and sentences of eight defendants, including several officials of the union, on charges of conspiring to violate the Racketeer-Influenced and Corrupt Organizations (RICO) statute.

The investigation by Special Agents from the Office of Organized Crime and Racketeering, the Federal Bureau of Investigation, and the Internal Revenue Service found evidence that the scheme, which operated from 1970 to 1977, was to get money for the defendants and co-conspirators by setting up or purchasing insurance companies and then influencing unions and trust funds to funnel insurance business into them. The defendants would then charge union members for the most expensive insurance and loot the insurance premiums paid by using them for kickbacks, payoffs, unearned salaries and fees, and improper personal expenses.

The union insurance business was funneled into what was intended to be a nationwide company that Joseph Hauser, a convicted insurance swindler-turned-government-witness, was to arrange. Hauser's company received over $39 million from various employee benefit plans nationwide; approximately $8 million was received from Florida. Kickbacks were given from these premiums in the form of cash, and other things of value.

Convicted on June 18 and sentenced on September 14, 1982, were: James Caporale, secretary-treasurer of the Chicago and vicinity District of the Laborers Union, to 12 years in prison; Seymour Gopman, former legal counsel to Florida Laborers' locals and benefit plans, to 5 years and 4 months in prison; Lewis Ostrer, former operator of benefit plans in New York (currently serving a jail sentence in a federal penitentiary as a result of an IRS investigation), to 7 years concurrent with sentence he is now

serving; Alfred Pilotto, alleged organized crime figure in Chicago and a high-ranking Laborers official in the Chicago area, to 20 years in prison; Bernard G. Rubin, former principal union official of the Laborers Union in Southeastern Florida (currently serving a jail sentence following a Department of Labor investigation), to 8 years concurrent with sentence he is now serving; George Wuagneux, real estate developer (now serving a jail sentence for a racketeering conviction resulting from another investigation conducted by Special Agents of the Office of Organized Crime and Racketeering, the FBI and the IRS), to 7 years concurrent with sentence he is now serving.

On June 2, the same jury returned a guilty verdict against John Giardiellio, president and business agent of Laborers Local 767 of West Palm Beach and trustee of the local's welfare fund and of the Southeast Florida Laborers District Council Dental, Vision and Preventive Care Trust Fund, and Salvatore Tricario, business agent and recording secretary of Local 767's welfare fund and special International representative. They each were sentenced on September 14 to 12 years in prison.

Anthony Accardo, alleged syndicate boss of Chicago; Angelo Fosco, general president of the Laborers International; and Terrance J. O'Sullivan, president of World Wide Insurance Company of Washington, D.C., and former general secretary-treasurer of the International union, were acquitted.

Five other defendants, including Santo Trafficante who is the reputed head of organized crime in Tampa, are awaiting trial.

An indictment involving the Laborers International Union in a similar insurance kickback scheme in New England was dismissed by the court and has been appealed by the government.

# # #

18-970 O—83——2

Union Official Pleads
Guilty to Racketeering

New Orleans, Louisiana - Charles W. Stanfield, secretary-treasurer of New Orleans Local 327 of the United Food and Commercial Workers Union, pled guilty on June 12, 1981, to one count of violating the Racketeer Influenced and Corrupt Organizations statute.

Following an investigation by the Office of Organized Crime and Racketeering, Stanfield had been charged in January 1980 with soliciting $108,000 and receiving $79,000 from 10 employer representatives to ensure labor peace and to grant "sweetheart" contracts. A superceding indictment in March 1980 charged him with receiving an additional $3,000 and attempting to extort $20,000.

Stanfield pled guilty and was fined $7,500, given a 30-month suspended sentence, placed on probation for 5 years, and required to devote 1 day per week to meaningful public service for 1 year.

# # #

Security Guard Union Officials Sentenced for Violating Federal Laws

New York City, New York - Daniel Cunningham, president of the Allied International Union of Security Guards and Special Police and the Federation of Special Police and Law Enforcement Officers in Long Island, and Herman Jaffe, business agent for the unions, were convicted and sentenced for violating the Racketeer Influenced and Corrupt Organizations (RICO) statute, RICO conspiracy, embezzlement, obstruction of justice, and attempted bribery of a federal agent.

On July 26, 1982, Cunningham received a 5-year prison sentence to be followed by 5 years' probation and was fined $80,000. Jaffe was sentenced to serve 3 months of a 5-year term and the rest on probation and fined $5,000.

The Office of Organized Crime and Racketeering had been investigating embezzlement of the unions' funds. Cunningham attempted to obstruct the investigation by offering one agent a $25,000 bribe and paying another agent $2,600 to stop the investigation. He also plotted to have his investigative file stolen and the Strike Force office burned down. His negotiations with the Special Agents were taped. He also attempted to influence the testimony of two government witnesses through threats and bribes, and burned down his own union office to destroy union records subpoenaed by the grand jury.

Over a 5-year period, Cunningham had independently embezzled approximately $161,000 from union benefit funds. His schemes included forging union and fund checks, receiving kickbacks, and using union and benefit funds for personal expenses.

He and Jaffe, together embezzled $77,000 by cashing Allied International union checks made out to fictitious employees.

Cunningham is allegedly associated with numerous organized crime figures, including Genovese family members Benjamin "Benny the Bug" Ross and "Fat" Larry Paladino, and Colombo family member John "Sonny" Franzese.

The Allied and Federation unions represent approximately 10,000 employees in New York, New Jersey, Connecticut, Washington, D.C., and Puerto Rico. Cunningham organized personnel at several nuclear power plants, including the Indian Point and Shoreham Plants. Through the Casino Police and Security Officers union, he attempted to organize employees in Atlantic City casinos, reportedly with Genovese organized crime family backing. The potential for extortion of casinos through organized crime control of their security force is great. Under New Jersey State Law, no casino may operate without security guards at specific locations, thus a strike would shut down the casinos with potential losses of millions of dollars.

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Fulton Fish Market
Investigation Nets 26

New York, New York - An investigation by Special Agents from the Office of Organized Crime and Racketeering to wrest control of the Fulton Fish Market from organized crime has resulted to date in the convictions of 26, including officials of the United Seafood Workers Union Local 359, Market businessmen and businesses and Local 359 itself.

Carmine Romano, whose many positions in local 359 have included executive administrator of the Fulton Fish Market Welfare and Pension Funds, ran the business of the Market for the Genovese/Tieri organized crime family. He and his brother, Peter, and cousin, Anthony O'Connor (also union local officials) were charged with conducting the affairs of the Market through a pattern of racketeering activity that included numerous acts of extortion, receipt of illegal payments, misuse of the union's welfare and pension funds, and obstruction of justice.

Carmine Romano was sentenced on February 5, 1982, to 12 years in prison and fined $29,000; Peter Romano received an 18-month sentence. Their convictions were upheld on appeal. Anthony O'Connor became a fugitive. The union local had been fined $200,000 in May 1981.

Charges against the businessmen and businesses included making illegal payments, tax evasion, perjury and contempt of court.

A third Romano brother, Vincent, had pled guilty after being indicted in March 1982 on charges of conspiracy and filing false loan applications. The judge found that Vincent had been running the Market for his brother Carmine, who is serving his sentence.

During the course of this investigation, a government witness was shot five times in an attempt to frighten other witnesses from testifying before the grand jury. Miraculously, the witness survived. Threats of violence were made to other witnesses. Some refused to testify and went to jail.

The Fulton Fish Market--a multi-million dollar fish industry that supplies fish to wholesalers and retail merchants along the Eastern Seaboard--has been under the control of the Genovese organized crime family for 50 years. In the 1930's, Joseph "Socks" Lanza ran the union and the Market. Carmine Romano's schemes pretty much echo the schemes that Lanza practiced during his rein in the Market.

The Internal Revenue Service and the New York City Police Department are assisting in this investigation.

# # #

President of Blasters Local 29 and Others Sentenced

New York, New York - Louis Sanzo, president of the Blasters, Drillrunners and Miners Union Local 29, was sentenced on August 14, 1981, in New York City to three years in prison and fined $22,500 after being convicted on two counts of income tax evasion and one count of conspiracy to evade income tax. The charges relate to the receipt of $200,000 in payments from a construction company owned by Ralph Trainello, also indicted. Sanzo was found innocent of racketeering, racketeering conspiracy, obstruction of justice, and an additional tax evasion charge.

The investigation of local 29 by Special Agents of the Office of Organized Crime and Racketeering resulted in other convictions in 1981. Amadio Petito, secretary-treasurer of the local, was sentenced to 4 years in prison for criminal contempt for disobeying a court order to testify before the grand jury and for later giving false testimony.

Samuel "Big Sam" Cavalieri, Sr., an alleged organized crime figure, received a 4 year sentence on his conviction for criminal contempt in refusing to answer questions before the grand jury. In a Fatico Hearing, in which testimony of organized crime involvement is presented by the government to enhance a defendant's sentence, the District Court Judge found that Cavalieri is a member of the Luchese organized crime family under the leadership of Antonio "Tony Ducks" Corallo and that Sanzo and Petito reported to Cavalieri and received directions from him concerning the operation of local 29.

Thomas Mancuso, alleged high-level organized crime figure, also refused to answer questions before the grand jury and was found guilty of criminal contempt. He died of natural causes before sentencing.

(more)

The Federal grand jury had indicted 10 individuals in this case on charges of racketeering, conspiracy to engage in racketeering, tax evasion, contempt and perjury. Three defendants were acquitted, and the case against another was dismissed. The Internal Revenue Service joined the investigation when tax evasion evidence was uncovered.

On March 12, 1982, Trainello, an attorney and former owner and officer of Aberdeen Associates, Inc., and RNT Associates, Inc., was found guilty on charges of tax evasion, violation of the Racketeer Influenced and Corrupt Organizations (RICO) Statute, and conspiracy. He was sentenced to three years in prison and fined $30,000.

# # #

Political Figures--Father and Son--Sentenced for Violating Federal Laws

Newark, New Jersey - Two well-known political figures in New Jersey--who also happen to be father and son--were sentenced after being convicted on charges of receiving kickbacks, obstruction of justice, and income tax evasion.

Jacob Friedland, a former Speaker of the New Jersey State Assembly, was sentenced April 11, 1980, to 2 years in prison and fined $35,000. His son, David Friedland, a State Senator, was sentenced to 7 years and fined $35,000.

Both Friedlands have been attorneys for several union locals of the International Brotherhood of Teamsters (IBT) in New Jersey, including local 560 that is controlled by Anthony "Tony Pro" Provenzano and his brothers Nunzio and Salvatore. During the period of the investigation by the Office of Organized Crime and Racketeering, the Friedlands were counsel to IBT Local 701's pension and welfare funds and to numerous other Teamsters locals.

The Friedlands were convicted of receiving a total of $360,000 from Barry Marlin in return for using their influence to obtain $4 million in loans from the local 701 pension fund for companies controlled by Barry Marlin. They were also convicted of obstruction of justice for attempting to cause a witness to give false and misleading testimony before the grand jury, and of income tax violations.

Marlin, who was serving a mail fraud sentence in California, cooperated in this investigation and was placed in the Witness Protection Program.

# # #

Two Atlantic City Police Officers Sentenced for Crimes Committed While Serving in Union Local

Newark, New Jersey - Two Atlantic City police officers were convicted and sentenced for violating federal laws while serving as union officials.

Joseph Anthony LaMaina, business manager, and James Conover, secretary-treasurer, of International Brotherhood of Law Enforcement Security Officers Local 40B, were both sentenced to 3 years' imprisonment and 5 years' probation.

Following an Office of Organized Crime and Racketeering investigation, the defendants were convicted on all eight counts of an indictment charging them with conspiracy to obstruct justice, perjury before the grand jury, embezzlement of approximately $12,000 in union assets, and failure to file annual financial reports. The perjury and obstruction of justice charges arose from the defendants' fabrication of Executive Board Meeting minutes that purportedly authorized their use of the embezzled funds.

Evidence presented at trial showed that LaMaina acted as a front for the late John McCullough in the formation of local 40B to organize security guards in Atlantic City casinos. McCullough, president of Roofers Union Local 30, was allegedly the representative of the Bruno organized crime family.

Following sentencing, the government obtained an order freezing local 40B union and benefit fund accounts pending the appointment of a receiver by the court.

# # #

Civil RICO Filed Against Provenzano Group to Clean-Up Teamsters Local 560

Newark, New Jersey - Based on the civil provisions of the Racketeer Influenced and Corrupt Organizations (RICO) statute, a complaint was filed on March 10, 1982, by the Federal Government against the present and former officers of International Brotherhood of Teamsters (IBT) Local 560, known as the "Provenzano Group" after Anthony "Tony Pro" Provenzano, a former vice president of IBT and former president of local 560, and now serving a 20-year sentence for racketeering. Provenzano is also alleged to be a high ranking member of the Genovese organized crime family.

The complaint represents the first time that the government has used the civil provisions of RICO to launch a comprehensive attack upon a severe corruption problem within a labor organization in an effort to restore union democracy.

The complaint, which specifically names former local 560 officers Anthony Provenzano and his brother Nunzio Provenzano, Steven and Thomas Andretta and Gabriel Briguglio, alleges that the Provenzano group has committed a series of racketeering violations using their positions of authority within the local throughout the last 30 years. Except for Nunzio Provenzano, who is appealing a 1981 labor racketeering conviction, the other former officers are currently in jail on other charges.

In June, Anthony Provenzano signed a consent agreement barring him from serving in any position, directly or indirectly, in the local. The case against the other defendants in the suite has not yet been settled.

The complaint, which resulted from a joint investigation by the Strike Force Special Agents from the Office of Organized Crime and Racketeering and the Federal Bureau of Investigation, seeks an injunction to prevent associates of the Provenzano group from

committing further racketeering violations. It also seeks the appointment of one or more trustees to control and audit the assets of the union and benefit funds and conduct a general election for officers under free and democratic conditions.

The complaint alleges that the Provenzano group maintained control of local 560 through a pattern of racketeering activity involving murder and systematic use of extortion. Among the instances cited are: (1) the 1961 murder, at Anthony Provenzano's direction, of Anthony Castellitto, secretary-treasurer of local 560 and a political opponent of Anthony Provenzano in the union; (2) the 1963 murder of another Provenzano opponent, Walter Glockner, following an argument with Salvatore Provenzano and Thomas Reynolds, Sr., over the appointment of J.W. Dildine as a business agent; and (3) the appointment to official positions of individuals convicted of such crimes as counterfeiting, extortion, felonious assault and battery, aggravated assault, felony robbery, and other crimes of violence. Interviews of present and former local 560 members revealed that due to the fear and repression engendered by such a regime, the Provenzanos and their associates have dominated the union and its affairs without opposition for the past sixteen years.

Also joined as defendants are the following present officers of IBT local 560: the president, Salvatore Provenzano (Anthony Provenzano's brother); the vice president, Joseph Sheridan; the secretary-treasurer, Josephine Provenzano Septembre (Anthony Provenzano's daughter); the recording secretary, J.W. Dildine; trustees, Thomas Reynolds, Sr., (Nunzio Provenzano's brother-in-law), Michael Sciarra, and Stanley Jaronko. Salvatore Provenzano and Josephine Provenzano September are also trustee-administrators of the Local 560 Severance Pay Plan.

###

Arizona Union Leader Loses Appeal
of Embezzlement Conviction

Phoenix, Arizona - The conviction of William Soltero, Sr., on three counts of embezzlement of union funds were upheld by the Ninth Circuit Court of Appeals on May 14, 1981.

Soltero, who was secretary-treasurer and business manager of Arizona's Laborers Local 383, had been convicted in October 1979 following an investigation by the Office of Organized Crime and Racketeering into allegations of embezzlement involving submission of fraudulent expense vouchers and conversion of union funds to his own personal use. He was convicted on charges of using union funds to pay for the unauthorized air fare and hotel accommodations of a female friend, and for the settlement of a civil lawsuit arising out of an assault committed by Soltero and three other union officials. He was sentenced to 4-years probation and fined $6,000; and, after exhausting the appeals process, he was removed from union office as required by federal law.

Soltero's son, William Soltero, Jr., was a co-defendant and pled guilty to embezzlement in the 1979 trial. He was sentenced to 1 year and 1 day in prison and fined $5,000. He was removed from his union position as vice president of local 383.

# # #

ILA Local 1329 Official
Gets 6 Months for Violating
Federal Labor Laws

Providence, Rhode Island - Following an investigation by Special Agents of the Office of Organized Crime and Racketeering, Raymond J. Silva, president of the International Longshoremen's Association (ILA), Local 1329, was convicted on June 13, 1980. He was found guilty on two counts of embezzlement and seven counts of Taft-Hartley violations and sentenced to serve 6 months in the Federal Prison Camp in Allenwood, Pennsylvania, beginning May 6, 1981.

Silva had been indicted on charges that he embezzled about $33,000 from ILA Local 1996 between April 1978 and January 1979. At that time he was an officer for local 1996. He was also charged in the indictment with receiving over $33,000 between February and December 1978 from two companies that employed ILA members.

# # #

Hotel Union Local Official Gets
6 Months for Embezzlement

San Francisco, California - Raymond Lane, secretary-treasurer of the Hotel and Restaurant Employees and Bartenders Union Local 28 in Oakland, California, pled guilty to one count of embezzlement of union funds on January 13, 1979.

He had been indicted on 30 counts of embezzlement, violating the Racketeer Influenced and Corrupt Organizations (RICO) statute, and obstruction of justice on September 14, 1978, following an investigation by the Office of Organized Crime and Racketeering and the Federal Bureau of Investigation.

He was sentenced on August 17, 1979 to serve 6 months of a 2 year sentence under the conditions that he resign from his job as secretary-treasurer of local 28 and from trust and pension fund positions of any union and that he remove his family members from local 28 jobs.

In August 1982, Lane was indicted for tampering with two witnesses that were scheduled to testify at his probation hearing.

# # #

Officials of Small Florida
Local Sentenced for Embezzlement

Tampa, Florida - Two officials of the International Longshoremen's Association Local 1759 were sentenced in 1980 after one pled guilty to embezzlement and the other was found guilty on one count of embezzlement.

Willie J. Nelson, while serving as financial secretary of local 1759, embezzled $2,045 from the union for his own use. He pled guilty to the indictment and on July 10, 1980, was sentenced to a 2-year suspended sentence and placed on probation for 3 years.

While serving as president of local 1759, Eddie Powell accepted kickbacks from Tony Vecchio, president of T & M Builders, Inc., for work performed at the union hall. Vecchio was granted immunity from prosecution in return for his cooperation. Powell was found guilty on one of three counts of embezzlement and sentenced on November 11, 1980, to a 3-year suspended sentence and placed on probation for 3 years.

Local 1759 is a small local with a highly transient membership of about 100 that was organized in the late 1940's to handle unloading of bananas and fresh fruit and vegetables in Tampa. Membership has been declining because of reduction in work. There is now only one employer remaining in the Tampa Banana Association.

# # #

Businessman and Labor Leader
Get Heavy Sentences

Wilmington, Delaware - Following a lengthy investigation by the Office of Organized Crime and Racketeering, substantial sentences were imposed on Eugene Boffa, Sr., and Francis J. Sheeran, president of Teamsters Local 326 of Wilmington, Delaware.

Boffa was convicted in June 1981 on charges of operating leasing corporations through a pattern of racketeering, mail fraud, and illegal payments. He was sentenced in August 1981 to 20 years in prison and fined $47,000.

Sheeran was sentenced in December 1981 to 18 years in prison and fined $27,000, after being convicted in October on charges of violating the Racketeer Influenced and Corrupt Organizations (RICO) statute, RICO conspiracy, and mail fraud.

The lengthy government investigation, established that Boffa, with the participation of other defendants, masterminded a nationwide network of labor leasing companies that specialized in leasing truck drivers to major corporations throughout the country. These companies operated under various names, including Universal Coordinators, Inc., Country Wide Personnel, Inc., and Preferred Personnel, Inc. They employed several "front" people who posed as officers of various of these companies.

The defendants would interchange the companies as necessary to circumvent contractual employee wage and benefit requirements, or other problems as they arose, by terminating contracts with one leasing company and bringing in another leasing company that paid lower wages and benefits. Boffa and his co-conspirators were always careful to conceal his actual ownership of the successor companies, and thus defrauded a large number of employees.

Evidence at the trial established that Sheeran was an active participant in this operation for which he received several luxury automobiles and an undetermined amount of Boffa's profits. Trial evidence alleged that high-level organized crime figure Russell Bufalino also shared in the profits. He is the reputed head of organized crime in northeastern Pennsylvania.

The judge had ordered that nine companies owned by the defendants be forfeited to the government and appointed a receiver to prevent the dissolution of assets during appeals.

Defendant Robert Rispo entered the government's Witness Protection Program and agreed to testify for the government.

The other defendants included Boffa's son, Robert C. Boffa, Sr., Chandler Lemon, and Louis Kalmar, Sr., Robert Boffa and Lemon's convictions were reversed by the Third Circuit Court of Appeals on August 25, 1982. The court ordered a retrial for the two on a technicality, saying that the mail fraud statute under which they were convicted should not have been used for addressing violations of the National Labor Relations Act. The RICO convictions of Eugene Boffa, Sr., and Kalmar were left unaffected since Boffa's violations of Taft-Hartley and Kalmar's obstruction of justice remained intact.

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OFFICE OF ORGANIZED CRIME AND RACKETEERING SYNOPSIS AND CASE RESULTS

October 1, 1978 - January 26, 1983

THE STATISTICAL DATA AND THE FOLLOWING DETAILED ANALYSIS OF SIGNIFICANT CASES INVESTIGATED BY THE OFFICE OF ORGANIZED CRIME AND RACKETEERING (OOCR) INCLUDE SOME CASES WHICH WERE INITIATED AND PARTIALLY DEVELOPED BY THE U.S. DEPARTMENT OF LABOR, LABOR-MANAGEMENT SERVICES ADMINISTRATION (LMSA). IN OCTOBER 1978, THE RESPONSIBILITY FOR INVESTIGATING ORGANIZED CRIME/LABOR RACKETEERING, WAS TRANSFERRED FROM LMSA TO THE OFFICE OF INSPECTOR GENERAL, OOCR.

IN THAT TIME 80 CASES WERE PRESENTED TO JUSTICE FOR INDICTMENT. AS A RESULT, 257 PERSONS WERE INDICTED ALONG WITH 18 ORGANIZATIONS RESULTING IN 172 CONVICTIONS, 45 ACQUITTALS AND 52 INDIVIDUALS ARE PENDING TRIAL AS OF JANUARY 26, 1983.

1/26/83

INDICTMENT BY STRIKE FORCE AND DISPOSITION AS OF JANUARY 26, 1982

STRIKE FORCE*	INDICTMENT	CONVICTIONS	ACQUITTAL DISMISSALS	TRIAL PENDING	FUGITIVES
Atlanta	25	17	5	3	--
Boston	12	9	1	--	2
Brooklyn	25	14	7	3	1
Buffalo	14	8	--	6	--
Chicago	6	4	2	--	--
Cleveland	9	7	2	--	--
Detroit	13	9	4	--	--
Las Vegas	1	-	-	1	1
Los Angeles	13	10	2	--	1
Manhattan	45	36	--	8	--
Miami	23	10	8***	5	--
Newark	48**	31	3	14	--
New Orleans	3	3	--	--	--
Philadelphia	10	5	2	3	--
Phoenix	8	2	6	--	--
Providence	5	1	2	2	--
San Francisco	10	3	1	5****	--
San Juan	4	1	--	3	--
Tampa	2	2	--	--	--
Total	275	172	15	52	5

* No indictments for Hartford, Kansas City, or Milwaukee.

** Includes 12 persons named in Civil Rico.

*** 5 Dismissals under appeal.

**** Defendant Dorfman was killed 1/21/83.

ATLANTA

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
HREU LU 151 HREU INT'L.	TIMPERIO, JOHN	Bus. Agent	U. Embezzlement 7-12-79	12-27-79 5 yrs prob./$5K Fine	Plea	OOCR/FBI	41-9-0030-9-01
	HAGGERTY, ALICE	State Organizer	U. Embezzlement 7-12-79	5 yrs probation	Plea		
IBT 528	DAVIS, JERRY	Bookkeeper	Union Embezzlement False Records	12-31-79 1 Year Probation	Plea	OOCR/FBI	42-MB41-0001
IBT 528	TURNER, LARRY	None 3-23-81	St. Arson 8-6-81	10 yrs to serve	Plea	OOCR	42-MB41-0001
	TURNER, GARY	None	St. Arson 3-23-81	7 yrs to serve	Plea	Forsyth Cy PD	
	RAMSEY, BETTY	Chief Steward	St. Arson 6-23-81 Consp.	10 yrs; 5 to serve 2-23-82		Roswell PD	
	RAMSEY, JACK	UAW Ex Steward	St. Arson Consp 6-23-81	2-23-82 10 yrs-5 to serve		FBI	
	RAMSEY, RICKY	None	Consp.St. Arson 6-23-81	Acquitted		Dist. Atty. Blue Ridge Ct	
Carpt. Dist. Council	CROSS, JULIUS	Organizer	Accepting payoff	1 yr probation 10-20-80	Pre trial diverson	OOCR/FBI	42-A848-0001

1/26/83

ATLANTA

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Laborers Local No. 438	BAKER, WILLIAM	Chief Steward	Accepting payoff from employer 2-4-81	5-14-81 2 years probation	Plea	OOCR/FBI	42-MB46-0001
Ironworkers Local No. 387	WORLEY, GARY P.	Ex. Brd. Member	Perjury 2-4-81	Acquitted.		OOCR/FBI	42-MB48-0001
Hyman Const. Company	RUDINE, LARRY E.	Gen. Supt.	Wire Fraud 11-2-81	6 mos to serve $2,000 fine; $12,000 res.	Plea to Info.	OOCR/FBI Fulton/PD	42-D444-0001
Hyman Const. Company	HALL, MICKEY	Asst. Gen. Supt.	Wire Fraud	$5K Fine 5 yrs probation 4-14-82	Plea to info.	OCR/FBI	42-D444-0001
Law Enforcement Security	DYE, ULIE	Atlanta P.D.	False Union Records	6-23-82		OOCR/ FBI/APD	42-D444-0001
IBT 728	JONES, PIERCE HILL, MILTON RUDD, JOHNNIE	Bus. Agent Chief Steward Alt. Steward	3-16-82 Explosive Devices Conspiracy; Illegal transport of explosives	Trial Pending		ATF/ FBI/ OOCR/	42-MB48-0001
	POSNER, HARVEY	Insurance Agent	Wire Fraud	3-9-82 5 yrs $5,328 Restitution	Plea to Information	OOCR/ FBI/ Fulton DA	42-D444-0001

1/26/83

ATLANTA

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Tile, Marble & Terrazzo Wkrs, Int'l.	DiJAMES, PASCAL	Int'l. President	1-21-82 False Records Failure to File Trusteeship Report	12-14-82 1 yr custody-suspended 2 yrs probation		OOCR/FBI	42-D444-0001
	IRRABINO, FRANK	1st Vice President	1-21-82 False Records Union Illegal transfer of Funds	11-12-82	Dismissed		42-D444-0001
	TMT INT'L. UNION	Union as an Entity	1-21-82 Improper Transfer of Funds	11-12-82 Dismissed			
	SMITH, RAYMOND	Int. Rep. Sup.	False Union Records Illegal transfer of of funds/Trusteeship 1-2-82	1-2-82 2 yrs probation	NOLO Plea to Information	OOCR/FBI	42-D444-0001
	CARTER, JERRY	Int. Rep./Southern	False Union Records	3-1-82 3 yrs probation	Plea to Information	OOCR/FBI	42-D444-0001
Self Employed	NAPOLATANO, FRANK	None	6-17-81 Extortion	Dismissed		OOCR/FBI	42-D444-0001
Plan Admin.	CURRIE, RALPH	Plan Administrator	3-9-82 Failure to File	Pled - 4/7/82 1 yr Probation $2K Fine		OOCR/FBI	42-D499-0811

1/26/83

BOSTON

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
ILA, LU 1947	MOORE, RICHARD	President	21 USC 841(a)(1) & 846, Narcotics on 8/15/80.	4 years inc.		OOCR/DEA	11-F045-0001
	MOORE, ROBERT	Ex. Board		5 yrs. susp. $5K Fine			
	MOORE, JAMES	Ex. Board		Dismissed			
	LEWIS, STANLEY	Member		5 yrs. susp./$5K Fine			
	ROACH, WILLIAM, Sr.	Member		5 yrs. susp./$5K Fine			
	ROACH, WILLIAM, Jr.	Member		5 yrs. susp./$5K Fine			
	CONNEY, DONALD	Member		5 yrs. susp./$5K Fine			
	VARNEY, BASIL	Boat Captain		5 yrs. susp./$5K Fine			
	ROSS, HARRY	Commercial Fisherman		Fled			
	FLOYD, ENNIS			5 yrs. susp./$5K Fine			
Laborers, LU 455	INORIO, ALBERT	Bus. Manager	29 USC 501(c) Embez.	3 yrs. -		OOCR/	11-9-0010
	ANNUNZIATO, S.	Former IUOE Officer	18 USC 371, Conspiracy 4/26/79.	11/20/79	Fled	FBI	

BROOKLYN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
LU 282, IBT	NICOLIA, SANTE	Company Official	False ERISA Records 4-4-79	9-26-79-90 days SS-2 Yrs. Prob. 1K Rest. 80K rest; 10K Corp.	Plea during trial	OOCR	22-MB47-0001
	ELM TRANSIT MIX	Corporation	False ERISA Records 4-4-79				
IBT LU 806	SNYDER, GEORGE	Former Sec/Treas	Embezzlement 1.2 Mil ERISA Funds-12-28-79	Conv. 5-22-80 Sent 7-22-80 5 Years & 10K		OOCR/FBI	22-MB43-0016
Op. Engineers LU 138	SCHINE, TERRENCE	Construction Manager	Extortion, Tax Evasion $21,000 Fine & Court Costs 9-3-80	Conv. 1-29-81 2 yrs; 4 yrs prob.		OOCR/IRS	22-9741-0002
	O'CONNOR, FRANCIS	Government Official	Obstruction of Justice/Perjury 5-18-81	Conv. 8-81 1 Year		OOCR/FBI	22-9741-0002
LU 2497	MARITAS, THEO. SPINA, CIRO	Pres. & S/T Publisher (Labor Journal)	Kickbacks 7-2-81	Trial Pending	Fugitive	OOCR	22-7699-0001

1/26/83

BROOKLYN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Boilermakers LU 5	KOENIG, WILLIAM	Business Manager	Tax Evasion, RICO Hobbs, Taft Hartley 7-2-81	Trial Pending		OOCR	22-0041-0002
Allied Int'l. Union of Security Guards	CUNNINGHAM, DANIEL JAFFE, HERMAN PONTE, SALVATORE	President Bus. Manager Bus. Manager	RICO, Bribery, O/J. Arson, Embezzlement 8/21/81	5 yrs, $80K Fine 3 mos; 4 yrs 9 mos prob. Acquitted 6/16/82		OOCR	22-0044-0001
Blasters LU 29	SANZO, LOUIS	President	RICO/Tax E. Embezzlement/T-H	Conv. 6-23-81/3 yrs/22K		OOCR/IRS	22-D641-0003
	SANZO, BERTHA	None	Conspiracy	Acquitted 6-23-81			
	MATRANGA, JOSEPH	Former President	Conspiracy	Acquitted 6-23-81			
	TRAINELLO, RALPH	Attorney	Conspiracy	Convicted 3-12-82			
	LOPEZ, ROBERT	None	Conspiracy	Convicted 5-13-81	Plea		
	FORTUNATO, ANTHONY	None	Conspiracy	Acquitted 12/29/81			
	CAPRA, JOSEPH	None	Perjury 3/17/81	Dismissed			
	MANCUSO, THOMAS (dec)	None	Contempt	Died before sent.			
	PETITO, AMADIO	Secretary/Treasurer	Contempt 3/17/81	7-1-81 4 years/5K			
	CAVALIERI, SAMUEL SR.	None	Contempt 3/17/81	7-1-81 Sent 8/14-81 4 years			
IBT LU 282	GROSS, HARRY	Business Manager	RICO, Bribery Extortion 5/81	Trial Pending		OOCR/FBI	22-MB43-0015

BROOKLYN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IBT LU 282	CODY, JOHN	President	RICO, Bribery Kickbacks	Trial Pending		FBI/OOCR/ IRS	22-M843-0015
Brick & Clay LU 3A	KOPPLEMAN, LEONARD	President	Taft-Hartley Kickbacks 6/1/82		Pled to Info	OOCR	22-7341-0001
Blue Ridge Farms, Inc. LU 3A	SIEGEL, SEYMOUR	Owner	Taft-Hartley Kickbacks 6/11/82	Fined $20K 3 yrs Probation	Pled to Info	OOCR	22-7341-0001

1/26/83

BUFFALO

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Laborers, LU 214	SCACCIA, FRANCIS	Union Steward	RICO/1-9-81	7/17/81 Fortr. office/3 yrs/5K		FBI/OOCR	22-D644-0003
	SCACCIA, RONALD	Bus. Administrator	RICO	5 years			
	LEROY, KEVEN V.	Business Manager	RICO	Fortr. office/3 yrs/5K			
	CAGNOLI, EDWARD	Member	RICO	2 1/2 yrs			
	WILSON, ROBERT	Member	False Statements	Plea/11-10-81/3 yrs ss/10K			
	TESTI, ORLANDO	Union Officer	Tax Evasion	10-29-81-6 months/5K			
	HITCHINGS, JOHN	Contractor	Tax Evasion/7-17-81				
Laborers LU 333	VACCARO, RICHARD	Business Manager	Embez.-Mail Fraud 7-29-81	3 mos/Sentenced 33 months probation 15K Fine/7-29-81	Pled	OOCR/NYSP	22-D644-0004
Laborers LU 210	FINO, RON	Business Agent	Conspiracy/11-81	Trial Pending		OOCR/ Postal Insp.	22-D699-0001
	GIAMMARISI, THOMAS	S/T Onyx Corp.	Mail Fraud				
	MASTYKARZ, CARL	Bank Official	False Bank Loan				
	STERLING, WILLIAM	LU 210 Member	Application				
Laborers LU 435	PICCARRETO, LOREN	Steward	Union Violence	Trial Pending		OOCR/ NY State Police Rochester PD	22-D644-0005
	TRIESTE, JOSEPH	Steward	Conspiracy 12/15/82				

1/26/83

CHICAGO

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Iron Workers LU 498	CHABUCOS, GEORGE	Business Agent	1/7/80 Perjury Arson	3/24/81-1 yr. probation and $1,000 fine Not Guilty to arson	State Court Trial	OOCR/Ill. Dept. of Law Enforcement	51-D-44-0001
IBT LU 50	NITKA, CLEMENT	Business Manager	3/20/80 Embezzlement False union records	6/3/80 2 yrs. probation	Pled to false records	OOCR/FBI	51-M-844-0001
Distillery Workers, Int'l. Union	DUFF, JOHN	Int'l. Vice Pres.	9/2/81 Embezzlement False Records	2/1/82 - 6 mos. Work rel. 5 yrs. Probation-$5K Fine	Pled at trial	OOCR	51-87-44-0001
Distillery Workers, LU 3	HANSEN, HOWARD	President	False Records	1/26/82 3 yrs Probation	Pled		
IATSE Motion Picture LU 110	JOHNSTON, JOSEPH WROBEL, ALVIN	Secretary/Treas. Business Manager	1/27/82 Embezzlement ERISA Conspiracy	Pending Trial		OOCR/FBI	51-M-345-0001

CLEVELAND

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO.
INT'l, HREJ	GIBSON, JOHN	Int'l Sec./Treas.	Conspiracy, Embez. 3-23-79	5-30-80 4 months	6th CCA Upheld Conv. 4-20-82	OCR/FBI/ IRS	53-C344-0001
	Shiffman, H.			Dismissed			
	Stamos, J.			Dismissed			
Toys - Dolls LU 55, 56	D'AMBROSIA, LOUIS	President	Conspiracy, Embez.	3 yrs prob. Barred from office	Pled	OOCR	53-MB44-0001
Private Security Guards	WETTRICK, EDWARD	Sec./Treas.	Conspiracy, Embez.	3 yrs probation	Pled		
Private Local 57	D'AMBROSIA, EDWARD	H & W Plan Admin.	Conspiracy 12-9-80	3 yrs prob. Barred from office 4-21-81	Pled	OOCR	
Teamsters LU 407	STERRETT, THOMAS	Business Agent	Operating Gambling Devices, State Indict. 1-4-81	$150 Fine Gambling devices seized/3-2-82	Pled	OOCR/ Co. Sheriff	53-MB41-0001
	MASTRO, JOHN			$500 Fine Suspended	Pled		
	CAPASSO, PASQUALE			$500 Fine Suspended 7-16-82	Pled		

DETROIT

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO.
IBT, LU 299	MELI, VINCENT A. RUSSO, JAMES A. SMITH, ROBY G. CUSMANO, JOSEPH D.	Corporate Officer Corporate Officer Business Agent Corporate Officer	Hobbs Act-4/6/77 Hobbs Act Hobbs Act Hobbs Act	3 years/20K-8/1/79 3 years/20K-8/1/79 3 years/10K-8/1/79 3 years/ 5K-11/5/77	Appeal Pending Appeal Pending Appeal Pending Reversed on Appeal Convicted on retrial 6/3/82	OCCR/LMSA	52-MB47-0002
Teamsters Health & Welfare Fund	VITELLO, SILVERIO VITELLO, ANN S & VEE CARTAGE CO. INC.	President Vice Pres. Corporation	Mail fraud, conspiracy. False Statements-ERISA 3/31/81	2 years/10K-11/6/81 2 yrs/11K-11/16/81 25K Fine	Appeal Pending	OCCR	52-MB47-0001
IBT, LU 299	BANKS, RAYMOND H. DAVIS, EUGENE LINS, ROBERT A.	Vice President Trustee Past President	Embezzlement-8/6/81 Conspiracy	Acquitted Acquitted Acquitted 2/10/82		OCCR	52-MB41-0007
IBT, LU 299	LINS, ROBERT A.	Past President	Obstruction of Justice/8/6/81	Acquitted-3/22/82		OCCR	52-MB41-0007
Distillery Workers LU 42	DUFF, JOHN TRIGLIA, DANIEL	Int'l V. Pres. LU President	U. Embezzlement Filing False LM Reports/Unlawful Payments-Taft Hartley Obstruction of Justice 3/31/82	7/8/82 Pending Trial	Pled	OCCR	52-9744-0002

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LAS VEGAS

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IATSE LU 720	KING, GEORGE	B/A	State Felony Fraud 10/18/82	Trail Pending		OOCR/ Clark City DA	91-M046-0001

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LOS ANGELES

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Bella Mia Food Products, Inc. IBT 911	CICHIRILLO, N.J. HOWARD, D.B. KIND, ARNOLD A. DOTSON BENNETT	Company Officers Sec/Treas	Arson, Insurance Mail Fraud, Conspiracy 6-25-80 Kickbacks Sweetheart Contract	Fled During Trial 10-28-81	Fugitives from State Prosecution	OCCR/ATF IRS/LA District Att/ Long Beach Polic Dept.	91-M840-0003
IBT 389 389 389 186 389	THORDARSON, S.,et al WISE, Charles DUNBAR, Craig SALGADO, M. FRY, MARTIN W.	Sec/Treas. V. President Bus/Agent/Org. Trustee Sec/Treas.	Conspiracy Embezzlement RICO, Interstate 9-17-1980	30 Mos to serve-5 yrs prob. Dismissed 24 Mos.-5 yrs prob. 24 Mos.-5 yrs prob. 30 Mos.-5 yrs. prob. 10/25/82		OCCR/ATF LA Fire Department	91-M857-0001
IBT 420	CRUSE-ANDRINI, L.	Bus/Agent/ Organizer	Kickbacks Arson Felon-Fire Arms Violation 7-81	40 months, Fed 3 yrs, state 7-81		OCCR/ATF	91-M857-0004
H & Welfare Fund Service Empl.	AVENETI, N.J. WADE, W.R. ORBACH, H.G. GUERRERO, CARL E.	Officers of Company	Conspiracy Influencing Employee Benefit Plan 3-27-79	10 consecutive weekends in jail 3 yrs probation		FBI/OCCR	92-9-0018-9-01

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MANHATTAN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
United Seaford Workers LU 359	UNION		Taft-Hartley	Conv. 3-19-81 Sent 5-29-81 $200,000 Fine		OOCR/IRS/ NYPD	22-F841-0002
LU 359	LEANZO, NUNZIO	Fish Co. Officer	Perjury 12-22-80	4-2-81 2 yrs./2.5K	Plea	OOCR/IRS/ NYPD	22-F841-0002
	LEANZO, ROSARIO	Fish Co. Officer	Tax Evasion 12-81	7-17-81 3 yrs/5 yrs prob./ 10K	Plea		
LU 359	LOCKWOOD & WINANT FISH CALEB HALEY FISH CO. BLUE RIBBON FISH CO.		Taft-Hartley T-H/Corp.	4-30-81 Suspended 11-30-81	Plea Plea	IRS/NYPD/ OOCR	22-F841-0002
	COMMERCIAL FISH	CORPORATION	5-7-81 Taft-Hartley	5-7-81 Suspended	Plea	IRS/NYPD/ OOCR	22-F841-0002
LU 359	MANTAUK SEAFOOD COMPANY, INC.	Corporation	7-31-81 Taft-Hartley	7-31-81		IRS/NYPD/ OOCR	22-F841-0002

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MANHATTAN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Seafood LU 359	PRISINZANO, GENNARO	Employer	Aiding & Abetting Tax Evasion 4-1-82	4-23-82 2 Yrs Probation	Pled	OCCR/IRS/ NYPD	22-F841-0002
LU 359	WILKINSON, F. FISH CO.		Corporation/T-H 6-3-81	Suspended Sentence 3-23-81		OCCR/IRS/ NYPD	22-F841-0002
	BOOTH FISHERIES		Corporation 6-8-81	Suspended Sentence			
	CORNELIUS, RJ FISH CO.		Corporation/T-H 6-18-81	Suspended Sentence			
United Seafood LU 359	ROMANO, CARMINE	Adm. Welfare/ Pension Funds	RICO & Extortion 7-23-81	Conv. 10-30-81 Sent. 2-5-82 12 Yrs/$29,000 Fine	Cir. Court Upheld Conv.	IRS, NYPD OCCR	22-F841-0002
	ROMANO, PETER	S/T & BA	RICO-Extortion Obstruction of Justice/7/23-81	18 Months	Cir. Court Upheld Conv.		
	O'CONNOR, ANTHONY	Former BA & Trustee	RICO-EXtortion/ Illegal Payments 8-11-82		Pled		
	ROZZO, FRANK				Pled		
	GANGI, ROSARIO				Pled		
	SIROWITZ, JULIUS			Illegal Labor Payments - 60 days Susp./1 yr probation $2500 Fine	Pled		
	BILLERA, JOHN	Trustee	RICO, Extortion Illegal Payments Perjury Obstruction 8-11-81	Unsupervised Prob. 1 Yr..- $10,000 Fine 3/12/82	Pled		
	CICCARONE, JOHN	Trustee	RICO/Illegal Payments/ 8-11-81	1 Yr./ Unsupervised Probation, $1700 Fine	Pled		

MANHATTAN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
United Seafood LU 359	COLE, WALTER	Accountant	False ERISA Reports 5/13/82		Plea to info. 7-13-82	OOCR	22-F841-0002
LU 359 Seafood	ALBANESE, JERALD	Fish Co. Officer	Failure to File	1-15-81 6 mos + $5,000 Fine	Plea	OOCR/IRS/ NYPD	22-F841-0002
	CUBERIO, MELITON	Fish Co. Officer	Tax Evasion 12-8-81	5 months		OOCR	22-F841-0002
Retail Clerks LU 888	FUCHS, DANIEL	Bus. Manager	Embezzlement	1-18-80 90 Weekends		OOCR	22-F841-0001
R & W. Dept. Store LU 338	COHEN, CHARLES	Organizer	Embezzlement 3-27-80 Union & Welfare Fund	7-8-80 6 Months and 3 Years Probation	Pled	OOCR	22-K745-0001
LU 359 Seafood	LATEGANO, DOMENICK	Employee	3-18-82 Tax Evas.	9-16-82 - 4 Months 3 Yrs. Probation	Pled	IRS/NYPD/ OOCR	22-F841-0002
	LEVY, DAVID	Employee	3-18-82 Tax Evas.	Not Guilty			
	GILLIO, THOMAS	Employee	3-18-82 Failure to File Tax Return	4 Mos. 5/27/82	Pled		
	ROMANO, VINCENT	Employee	3-18-82 Consp. - False Loan Application	10/1/82 - 1 Yr. and 1 Day	Pled		

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MANHATTAN

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IBT, LU 805	MATUSHITA ELECTRIC CO.		Taft-Hartley 5/15/82	$101,000 Fine	Plea	OOCR	22-MB41-0001
Seafood Workers	GILLIO, THOMAS	Employee	Interference with Commerce	Waiting Trial		OOCR/NYPD IRS	22-F841-0002
	GILLIO, KENNETH	Employee	Conspiracy				
	GILLIO, ROBERT	Employee	False Declarations				
	DePASQUALE, CARL	Employee	Influencing Juror				
	GUGLIELMO, PUAL	Employee					
	TALERICO, JOHN	Employee					
	ALMERARIS, PHILIP	Employee					
	FULTON FISH MONGERS ASSN.	Corporation	Taft-Hartley	Suspended Sentence 9/28/82	Plea	OOCR/NYPD IRS	22-F841-0002
	TAM FILLET, INC.	Corporation	Taft-Hartley	9/28/82	Plea		
	INTER CITY FISH SUPPLY	Corporation	Taft-Hartley	9/28/82	Plea		
	MAZURT JAFFE FISH	Corporation	Taft-Harley	9/28/82	Plea		
	C.G. WADMAN, INC.	Corporation	Taft-Hartley		Plea	OOCR/NYPD IRS	22-F841-0002
	FOGLIANO, FRANK	Owner	Taft-Hartley		Plea		
	SABATINO, RICHARD	Owner	Wire Fraud-9/29/82	Guilty-1/18/83	Awaiting Sent.	OOCR	22-F841-0002
	GRANDE, VICTOR	Employee	Income Tax Evasion/ Conspiracy - 9/30/82	5 Yrs. Probation	Pled	OOCR/IRS	22-F841-0002

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MIAMI

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
S. Florida Laborer's Pension Fund	WUAGNEUX, GEORGE	President and CEO of Sage Corp	RICO Embez.-ERISA Bank & Mail Fraud Tax Evasion 1/16/80	10 yrs Prison 3 yrs Prob/191K Rest. $20 K Fine 9/22/80	Trial	OOCR/FBI IRS	42-D645-0005
Laborers LU 478	WRIGHT, JAKE	President	Embezzlement 3/6/81	One year Probation 4/22/81	Pled to Information	OOCR	42-D641-0001

MIAMI

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Laborers Int'l Union	FOSCO, A.	Int'l President	RICO	Not Guilty 6/28/82		OOCR/FBI	42-D643-0002
	O'SULLIVAN, T.	Past Int'l S/T	Conspiracy	Not Guilty 6/18/82		IRS	42-D660-0001
	ACCARDO, A.		Kickbacks	Not Guilty 6/18/82			
	TRAFFICANTE, S.		6/3/81	Trial Pending			
	COPORALE, JAMES	S/T		Guilty 6/18/82			
	DI FRANCO, PAUL A.	V/P of DVCC		Trial Pending			
	FOSCO, PAUL			Trial Pending			
	GIARDIELLO, JOHN			Guilty 6/18/82			
	GORMAN, SEYMOUR	Legal Counsel		Guilty 6/18/82			
	NORTON,JAMES	V/P of DVCC		Trial Pending			
	OSTRER, LOUIS			Guilty 6/18/82			
	PILOTTO, ALFRED	Pres. LU 5		Guilty 6/18/82			
	PINCKARD, JAMES	Owner/Operator		Trial Pending			
	RUBIN, BERNARD			Guilty 6/18/82			
	TRICARIO, SALVATORE	BA & RC. LU		Guilty 6/28/82			
	WUAGNEUX, GEORGE	Pres. Sage Corp		Guilty 6/18/82			
LIUNA	COIA, ARTHUR	BA/DC	RICO	Dismissed 3/10/82	Government	OOCR/FBI	42-D660-0001
	COIA, ARTHUR E.,SR.	Int'l Sec/Treas	Kickbacks	Dismissed 3/10/82	Appeal	IRS	
	LePORE, ALBERT J.	Counsel	9/23/81	Dismissed 3/10/82	Pending		
	VACCARO, JOSEPH J.	Trustee		Dismissed 3/10/82			
	PATRIARCA, RAYMOND L.S.			Severed 3/10/82			

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NEWARK

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IBT, LU 945	PALMERI, ERNEST CAMPISANO, JOSEPH CARIELLO, VITO CHESTNUT, FLEN SMITH, FRANK	Business Agent President Secretary/Treas.	RICO Kickbacks-ERISA 10-5-78	5-5-79/7 yrs 5-5-79/2 yrs 5-5-79/4 yrs Overturned 5-5-79/6 mos	Cert Denied Cert Denied	OOCR/FBI	23-M841-0005
IBT, LU 560	ROMANO, FRANK ROMANO, THOMAS	Bldg. Contractor Bldg. Contractor	RICO, mail fraud Tax evasion 11-28-78	12-23-80/3 yrs 3 years; RICO Forfeiture 1.62 M	Trial	LMSA/OOCR IRS/POSTAL	23-M860-0003
IBT, LU 560	PROVENZANO, ANTHONY ANDRETTA, STEPHAN ANDRETTA, THOMAS BRIGUGLIO, GABRIEL PELLECHIA, RALPH	Former President Bus. Administrator Bus. Administrator Vice Pres. LU 84 Member	RICO/1-22-79	5-25-79/20 yrs 5-25-79/ 7 yrs 5-25-79/20 yrs 5-25-79/7 yrs 4-26-79/3 yrs	Trial Trial Trial Trial Plea	OOCR/FBI/ IRS	23-M-860-0002
Electronics Firm	MILLER, WILLIAM	Corp. Officer	Tax Evasion/3-8-79	Sent. 11/21/80 6 months, 5 yrs S/S; 10K		OOCR/IRS/ FBI	23-M843-0004

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NEWARK

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IBT, LU 701	FRIEDLAND, JACOB	Counsel	Kickbacks, Obst of Justice--tax 10/22/79	4-11-80 2 yrs/35K	Trial	OOCR/FBI IRS	23-MB43-0005
	FRIEDLAND, DAVID	Counsel		7 yrs/35K	Trial		
IBT, LU 478	UZZOLINO, JOSEPH P.	President	Kickbacks/ Embezzlement-11-7-79	Conv. 6/3/80 Sentenced 5 yrs	Cert Denied Conv. Upheld-11/22/82	OOCR/FBI	23-MB43-0008
	UZZOLINO, JOSEPH A.	Trustee/Bus. A.	Kickbacks - ERISA	Acquitted 6/3/80			
	AMENDOLA, JOSEPH	Trusteee	Embezzlement	Acquitted 6/3/80			
	MOR, SAM	Corporate Officer	T-H/Elkins Act-11-8-79	Conv. 11-8-79	Plea	OOCR	23-MB43-0008
	OBED BEN ARY	Corporate Officer	T-H/Elkins Act-11-8-79	Conv. 11-8-79 Suspended Sent.	Plea	OOCR	23-MB43-0008
	ESHEL, ELCHANAN	Corporate Officer	Elkins Act 1-11-80	Conv. 1-11-80 2 yrs probation	Plea	OOCR	23-MB43-0008
Laborers 734 P.& W. Fund	FEENEY, WILLIAM	President, Fund Trustee	Kickbacks 11-15-79	5/16/80 Sent. 7 yrs	Trial - Cert denied 1/12/82	OOCR	23-D643-0001
	GERMER, HUGO	Realtor	Kickbacks 11-15-79	Conv. 5/16/80 Sent. 6 yrs	Trial	OOCR	23-D643-0001
Boilermakers LU 28	CROWLEY, CHARLES	Business Manager	6-10-80 RICO. Tax Evasion Permanent Bar	Conv. 6/10/80 Sent 7-21-80 6 mos/5K & consent judgment on RICO	Plea to Information	OOCR/IRS	23-7241-0001

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NEWARK

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Accounting Firm for LU 560, I&T	TORRACO, RALPH J.	Accountant	Tax Evasion/ERISA Reporting Violation 9-9-81	7/14/82 Sentence Pending	Plea to Information	OOCR/IRS	23-M845-0003
Law Enforcement and Security Officers, LU 40B	LAMAINA, ANTHONY CONOVER, JAMES	Business Manager Secretary-Treas.	9-20-81 Embezzlement Perjury	12-30-81 3 years & 5 years Probation	Trial	OOCR	23-Q441-0001
Laborers LU 222	TAYLOR, GARLAND	Administrator	9/22/81 Embezzlement	3/12/82 5 yrs Prob. $5K Fine	Plea	OOCR	23-D645-0004
Laborers LU 21	PASQUALE, JOHN J.	Former Bus. Admin.	10-8-81 Firearms, Dangerous Special Offender Act	12-8-81 7 years	Trial	OOCR/FBI ATF	23-D651-0001
UAW, LU 906	ROEHRER, EUGENE	Fin/Sec.(ret)	10-15-81 Embezzlement	1-15-82 3 yrs probation	Plea	OOCR	23-M845-0001
Metro Dental Services	BURKE, JOHN RESNICK, STAN	Salesman Corporate Officer	12-20-81 False loan Fed. racketeering conspiracy	1-25-82/5 yrs prob. 4-2-82/1 yr & 1 day prison	Plea Trial	OOCR	23-M845-0001

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NEWARK

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
IBT LU 560	PROVENZANO, SALVATORE	President Funds Trustee	Civil Rico/3-9-82			OOCR/FBI	23-M860-0001
	SHERIDAN, JOSEPH	Vice President					
	PROVENZANO, JOSEPHINE	Sec-Treas. Funds Trustee					
	DILDINE, J.W.	Recording Sec.					
	REYNOLDS, THOMAS	Trustee Funds Trustee					
	SCIARRA, MICHAEL	Trustee					
	JARONKO, STANLEY	Trustee					
	PROVENZANO, ANTHONY	Former President	Civil Rico 3-9-82	Consent Judgment 6-15-82			
	PROVENZANO, Nunzio	Former President					
	ANDRETTA, STEPHEN	Former Business Agent					
	ANDRETTA, THOMAS	Associate					
	BRIGUGLIO, GABRIEL	Associate					
IBT LU 863	PAONE, JAMES	Recording Sec.	RICO/7-15-82		Trial Pending	OOCR/IRS	23-M841-0008
	PECORA, THOMAS	Corporate Officer	RICO/7-15-82		Trial Pending	NJSP	
	FEDERICO, BIAGIO	Corporate Officer	RICO/7-15-82		Trial Pending		
Food/Comm. Workers LU # 1262	KAPLAN, MARVIN	Corporate Officer	Mail Fraud 11/22/82		Trial Pending	OOCR	23-F845-0001

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NEW ORLEANS

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
United Food Workers LU 327	STANFIELD, CHARLES W.	Secretary/Treas.	RICO Taft-Hartley	Probation $7K Fine	Pled	OOCR	42-F860-0001
Gem. Brokerage Company, Inc.	LEGER, JIMMY	General Broker	Mail Fraud Conspiracy 9/16/82		Pled 11/10/82	OOCR/ Postal	42-F860-0004
	BELL, JAMES	Former Sales Manager	Mail Fraud 10/8/82		Pled 10/8/82	OOCR/ Postal	42-F860-0004

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PHILADELPHIA

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Teamsters LU 326	BOFFA, Eugene	Corp. Officer	Mail, Taft-Hartley	20 yr/47K - 6/8/81		OOCR	31-M860-0001
	SHEERAN, FRANK	LU President	RICO	18 yr/27K - 10/30/81	Companies		31-M860-0002
	KALMAR, L.	Corp. Officer	Obstruction - 7/14/80	10 yr/20K - 6/8/81	forfeited/all.		31-M860-0005
	BOFFA, Robert	Corp. Officer		12 yr/24K - 6/8/81			31-M860-0004
	LEMON,C.	Corp. Officer		8 yr/ 8K - 6/8/81			31-M860-0030
	RISPO, R.	Corp. Employer		5 yrs prob. - 2/81	Plea		31-M860-0027
Service Empl.	SMITH, Tim	Corp. Officer	Embezzlement-Pension Tax - 4-81	1 year to serve Restitution of $86K 5 years probation		OOCR/ IRS	31-K947-0001
Roofers LU 30	STEARN, W.R.	Former Pres.	12/15/82 Conspiracy False Tax Returns	Trial Pending		OOCR IRS/FBI	31-K941-0001
	LUEMIG, JOSEPH	Salesman	12/15/82 Conspiracy False Tax Returns	Trial Pending			
	BARBUM, THOMAS	Corporate Officer	12/15/82 Conspiracy False Tax Returns	Trial Pending			

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PHOENIX

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
Laborers H. & W. Fund	HERRERA, G.	Insurance Rep.	Interstate Transport of Stolen Property Recipt of Stolen Property	Directed Verdict Not Guilty July 1981	Trial	OOCR/FBI	91-D644-0001
Laborers LU 383	SOLTERO, W. Sr. SOLTERO, W. Jr.	Bus. Agent/S/T President	Embezzlement Embezzlement	Prob., 4 yrs., 6K Fine 1 yr./1 day, 5K Fine October 1979	Trial Plea Both removed from office	OOCR/FBI	91-D644-0004
Laborers LU 479 & 383	WARREN, M. SOLTERO, W. Sr. LOZANO, F. TORRES, E. BROWN, F.	Int'l. VP - 7th Bus. Manager-S/T President, Local S/T-Local & DC Pres/State AFL-CIO Bus. Manager, Local 479	Embezzlement Mail Fraud Conspiracy 5/29/81	Directed Verdict Not Guilty November 3, 1981	Trial	OOCR/FBI	91-D644-0004

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PROVIDENCE

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
ILA, LU 1329 (RI)	SILVA, R.	President	29 USC Embezzlement 29 USC 186, Taft-Hartley 10/3/79	1 yr-6/13/80		OOCR	11-F044-0001
Laborers, D.C. (RI)	MERLONI, JAMES V. POIRIER, LOUIS W.	President Sec./Treasurer	29 USC Embezzle 18 USC 2, Aiding & Abetting - 1/8/81	Not guilty after trial 6/3/81		OOCR/FBI	11-D644-0001

PUERTO RICO

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
ILA LU 1902	BENITEZ, MARTA I.	Employee	Embezzlement 12/19/79	3 yrs. probation Restitution 4/23/80	Pled		42-F045-0001

SAN FRANCISCO

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
HREU #28	LANE, RAYMOND	President	Embezzlement ERISA 9/14/78	6 Months Jail $5K Fine 18 Mos Probation 5/12/81	Pled Resigned from Office	OOCR/FBI	91-C344-0001
IBT LU #70	NUNES, LEROY	Bus. Agent	Taft-Hartley 12/13/79	Dismissed 2/8/80		OOCR/FBI	91-MB44-0001
	ANGELO, WALTER	Employer	Embezzlement- ERISA Tax Evasion	5 Yrs/10K	Plea	OOCR/FBI IRS	91-MB44-0001
HREU LU #19	MAROLDA, FRANK	President	Union Embezzlement Obstruction Conspiracy CETA Embezzlement 9/10/80		On Appeal No Trial Date	FBI/OOCR	91-C344-0003
HREU LU #28	LANE, RAYMOND	Former Sec/Treas	Obstruction of Justice 8/4/82	Guilty 9/29/82	Prob. Violation Charges Filed 4/30/82	FBI/OOCR	91-C344-0002
HREU LU #19	MAROLDA, FRANK	President	Conspiracy	Pending Trial		FBI/OOCR	91-C344-0001
HREU LU #28	LANE, RAYMOND	Former Sec/Treas	Wire Fraud	Pending Trial			
	CHAPMAN, ABE		Aiding/Abetting	Pending Trial			
	SCHWARTZ, SOL	Corporate Officer	Offer Acceptance	Pending Trial			
	DORFMAN, ALLEN	Shareholder	of Bribe 1/11/83		Killed-1/21/83		

1/26/83

TAMPA

UNION	SUBJECT	OFFICE	INDICTMENT/DATE	CONVICTION/DATE	REMARKS	AGENCY	CASE NO
ILA LU 1759	NELSON, WILLIE POWELL, EDDIE	Financial Sec. President	Embezzlement 6-19-80	2 yrs. suspended 3 yrs. probation 9-30-80		OOCR/ FBI	42-PO44-0001

1/26/83

Senator HATCH. If these documents are wrong, if the hundreds of examples of racketeering that have been submitted to Congress are incorrect or distorted, I urge the management and union officials named or identified to take the time to clear up the record.

It is also claimed that S. 336 discriminates against convicted union officials because it treats them differently than employer representatives. It should be remembered, however, that all of the prohibitions found in S. 336 apply to both labor and management.

The bill also provides for immediate disqualification upon conviction by the trial court rather than at the conclusion of the appeals process. This is intended to protect the interests of union members or participants in a pension plan from individuals convicted by a court of law of a prohibited act.

To further protect union officials, the bill does provide for the establishment of an escrow account for the payment of salaries or other moneys which come due during the period of appeal. This provision only applies to convicted officials. There is no similar protection for convicted management representatives. To me, such disparate treatment discriminates in favor of union officials.

The bill does extend the period of disqualification from 5 to 10 years, unless the court determines that a lesser period of at least 5 years would be more appropriate. During such a period, the convicted union official could not hold office in the union, work for the union as an employee or an adviser, or retain a similar position with a pension plan.

His management counterpart is similarly barred from participation in the collective bargaining process or from working in labor-management relations on behalf of any employer. Such a prohibition allows both groups of individuals to continue working, yet at the same time effectively removes them from the labor-management field.

Finally, it is argued that this bill would penalize the rank and file officer who only by simply mistake violates the law. This criticism I find the most disturbing, for if true, it would raise serious questions about the purpose behind S. 336.

I fully understand the anguish that confronts any individual representing either union or management interests who wishes to obey Federal laws as complex as our labor statutues. There is a very real possibility of inadvertently falling astray of a provision or a regulatory prohibition stemming from these statutes, despite an individual's best intentions. Therefore, language was included in the bill that requires a finding that a violation was either willful or both willful and intentional before the appropriate penalities will apply. Such language provides more than adequate protection against inadvertent or mistaken violations.

Personally, I hope this committee's consideration of S. 336 will be thorough but quick. While it is important that we develop a complete hearing record, it is equally important that S. 336 be enacted immediately so that the union movement can operate free from the influence of crooked and convicted individuals and free from the cloud of suspicion and doubt that has colored its activities over the past several years.

In that regard, I am very pleased to also welcome you, Senator Rudman, to this committee. I commend the great work you and

Senator Nunn have done in this area and, we appreciate your effort, we admire your leadership, and we are happy to have you here this morning.

Senator RUDMAN. Thank you, Mr. Chairman.

Senator NICKLES. Thank you, Senator Hatch. I will repeat the admiration I have for the leadership you have given, and also the cooperation that we have had with the Permanent Subcommittee on Investigations.

These committees have worked in tandem and have worked together. I think the net result has been very cohesive and a good piece of legislation—not only on this, but in longshore reform and other areas.

I thank you for your cooperation in the past and for your leadership, Senator Rudman, and I look forward to hearing your comments.

STATEMENT OF HON. WARREN B. RUDMAN, A U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator RUDMAN. Thank you very much, Mr. Chairman and Senator Hatch. I am here this morning both, of course, representing myself, but also Senator Nunn, who would have been here himself to deliver his statement.

So, Mr. Chairman, I would request that the statement of Senator Nunn be printed in the record in full at the beginning of the testimony today.

Senator NICKLES. It will be printed in the record.

Senator RUDMAN. Mr. Chairman, as you recall, Senator Nunn and I testified on identical legislation before your subcommittee about this time last year. The legislation passed the Senate unanimously on two occasions. I am hopeful that it will meet with similar success this year and that the House will give it early attention.

Although Senator Nunn could not testify before you this morning, I think it is very important to note his outstanding leadership in this area and his continuing efforts to offer legislative initiatives to end the insidious influence that organized crime has on some of America's labor unions.

Also, on behalf of Senator Roth, chairman of the Permanent Subcommittee on Investigations, and myself, I want to thank you and Senator Hatch, chairman of the Senate Committee on Labor and Human Resources, for your efforts in this regard and your expeditious treatment of this legislation.

The Labor Management Racketeering Act is offered in response to problems brought to light during hearings before the Permanent Subcommittee on Investigations. During the 2 years I have been vice chairman of that subcommittee, I have seen numerous examples of union officials convicted of crimes, often against their own membership, remaining in office for extended periods of time during the pendancy of their appeals.

You, Mr. Chairman, are, of course, aware of these examples, so I will not go into them at this time; they are part of a permanent record. But I would like to point out that the problem is most definitely not of recent origin.

In fact, during hearings before the Permanent Subcommittee on Investigations held in Chicago 2 weeks ago Friday, we heard testimony regarding many of the same people who were the subject of testimony in Chicago before PSI, chaired by Senator McClellan over 20 years ago.

At the outset, I want to make it clear that the overwhelming majority of unions in this country are actively pursuing the best interests of their membership; they are not the problem. The problem is the small number of corrupt union officials who control vast resources and affect a great many union members and businesses.

The most recent example involves the conviction of the president of the International Brotherhood of Teamsters, Roy Lee Williams, whose extensive ties to organized crime were brought out during both his trial and his sentencing hearings.

Through criminal means, these corrupt union officials insulate themselves from the rank and file, thus permitting their engagement in a variety of illegal activities, including racketeering, extortion, illegal bribes, and payoffs. The costs of these activities are enormous and are borne by society. The result is a cancer on our economy which feeds off consumers, legitimate businesses, union members and, I believe, government.

The problem is not a case of inadequate law enforcement effort, as some would say. During recent years, we have witnessed extremely successful prosecution of leading union officials. However, efforts by the Departments of Labor and Justice are largely nullified because our present laws are inadequate; they fail to rid unions of corruptive influence.

While their appeals are pending, convicted officials remain in office, continue their illegal activities, and groom others to take their places should their appeals fail. Furthermore, while their appeals are pending, convicted union officials sometimes have an opportunity to punish those who testified against them.

During our hearings, Mr. Chairman, we heard testimony concerning courageous business owners who testified against union officials and then were forced to continue meeting and bargaining with these same officials they helped to convict.

The Labor Management Racketeering Act would go a long way toward freeing labor unions from the tight grip of corrupt officials. The meat of the legislation would prohibit convicted union officials from holding a union office. I think this is the best, and indeed perhaps the only way of cleansing unions of corrupting influence and breaking the existing ties that exist with organized crime.

Beyond this, there are a number of other important changes proposed by the legislation. The bill would enlarge the number of union positions subject to disbarment, extend the period of disbarment from 5 to 10 years, increase the penalties for crimes involving more than $1,000, and broaden the scope of crimes which subject officials to disbarment.

Also, more as a reaction to past Department of Labor policies than to the present ones, the bill would clearly delineate the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution criminal activities in unions.

These important changes will help tighten up existing laws and insure that law enforcement efforts are not made in vain. Mr. Chairman, I believe this is an extremely appropriate time to adopt this legislation. This Nation is witnessing a major decline in the number of union members, and I suspect that a major factor behind that decline is the corrupt, crime-ridden reputation of some of these major labor unions.

It is, clearly, in the interest of the American labor movement to purge the unions of corrupt influence of organized crime. Those who recognize the problem, such as the leaders of the AFL–CIO and the Teamsters Central States Pension Fund, are already moving to garner support for this position. They recognize that there is need to protect the rank and file and maintain the trust of the American worker.

The Labor Racketeering Act will go a long way toward keeping union members safe from the illegal influences and practices of greedy individuals who would steal their hard-earned dollars and break the trust that must be the very heart of any labor organization.

Mr. Chairman, I will be pleased to answer questions you may have.

Senator NICKLES. Senator Rudman, we appreciate your comments. I have a couple of questions.

You have heard it stated, and Senator Hatch alluded to it, that sometimes the opponents contend this bill is unfair in that it discriminates against union officers in relationship to their counterparts at the management negotiating table.

Could you give us your views?

Senator RUDMAN. Mr. Chairman, I think that is clearly untrue. Under the provisions of the bill, any person, whether employed by a labor organization, industry or association of employers, would be disbarred upon conviction of enumerated crimes.

A perfect example would be the bill's application of the recent bribery conviction of Teamsters President Williams. Also convicted were union consultant Allen Dorfman, now deceased, and two employer-appointed pension fund trustees, Andrew Massa and Thomas O'Malley. Under the provisions of the bill, all four of these individuals would be disbarred upon conviction.

Senator NICKLES. Opposition has also been heard on the escrow provisions. These payments have been criticized as being overly burdensome on unions who must pay for services not being rendered. Would you comment?

Senator RUDMAN. Mr. Chairman, of course, they would not receive the money unless they eventually won their appeal. Quite frankly, I think to be fair, it is necessary to include the provision. I believe we would lose a substantial amount of support for the bill if it were dropped.

It is a trade-off between the interests of the union members and the convicted official and the interest of justice and equity. On the one hand, the union should not be required to continue to pay the salary of a convicted official. But on the other hand, if the convicted official eventually is successful with his appeal, it seems to us that he should receive his pay.

Senator NICKLES. If the conviction is later reversed on appeal, under the bill would a union officer automatically be placed back in his former position?

Senator RUDMAN. Well, there are really three possibilities. First, if there were no person in the position, if it had not been filled, then he would be restored. If there had been an election and that position had been filled, then he would not be reinstated. Third, the union could change its constitution to take into account the possible options.

Senator NICKLES. You mentioned the *Williams* and *Dorfman* cases. In the last 2 years when your committee was working on this legislation, and the oversight, and were drafting, we had not seen the Williams conviction nor the Dorfman conviction.

Does that strengthen your belief that this legislation is needed?

Senator RUDMAN. Mr. Chairman, I believe, as does Senator Nunn, more than ever that this is vitally needed, and let me tell you why. When PSI was in Chicago 2 weeks ago Friday, we were there at the invitation of the Chicago Crime Commission. The Chicago Crime Commission asked us to come there to help highlight for the people in Chicago the problems they have with organized crime both in union activities and in other activities.

We met with a number of people before the hearings, and one of the stories that was told to us was about the literally billions of dollars that are mounting monthly in union health and welfare pension benefit trusts.

These are enormous amounts of money; they are staggering, and they are an enormous temptation for groups of labor officials who are dishonest. They may be a minority, but they can certainly steal a great deal of money.

The folks who work in this area feel very strongly that this legislation is necessary to assure that once someone is caught at this particular game, they are barred from the game for a long time.

I think one of the great examples indicating the need for this legislation involves a Longshoreman's local down in Florida, which I believe you have in your record as well but bears repeating. The individual was convicted; he appealed. His conviction was for, I believe, the embezzlement of about $500,000 from a relatively small health and welfare fund.

He continued in the presidency, and before finally being removed embezzled another $800,000 to $1.2 million. That is, I think, an important example of what can happen.

To put it quite simply, Mr. Chairman, the American worker needs this legislation right now more than ever.

Senator NICKLES. Do you feel like this legislation is, I guess I would say, pro labor, or for the working men and women of this country?

Senator RUDMAN. I think it is very pro labor. It is pro the American working men and women. Certainly, if it were not, we would not have had the endorsement of the president of the AFL–CIO.

One of the insidious problems that we find in some of these corrupt unions are the tactics and the threats of bodily harm, including homicide, of which I have, in my prior position as attorney general of our State, seen examples.

With the intimidation, the threats and the coercion, the rank and file in many cases are afraid to do anything about removing corrupt leadership because they are fearful for themselves and their families. We have a chance to really eliminate that kind of coercion from having any effect whatsoever.

Senator NICKLES. Would you agree that if we were to canvass, poll, or visit with the rank-and-file union members and management of this country, they would be very much in favor of tighter restrictions on those persons found guilty of corruption of their pension funds, et cetera?

Senator RUDMAN. I think it would be overwhelming. Frankly, Mr. Chairman, I have found it very difficult to find any motives that I would consider pure behind those who have opposed this in a vigorous way.

Senator NICKLES. I agree with you, and I thank you very much for your assistance, leadership, and cooperation in helping us draft and craft this legislation. We will work together to see if we can get it through both sides of Congress this year as soon as possible.

Senator RUDMAN. Mr. Chairman, I want to thank you very much. It is one thing, of course, as we both know, to come up with legislation based on a hearing and a record, and it is yet another to get prompt action in the Congress. You have certainly, along with your committee and your chairman of the full committee, been most cooperative and Senator Nunn and I are very grateful for that.

Senator NICKLES. Thank you very much, Senator Rudman.

At this point we will receive for the record a statement from Senator Nunn.

[The prepared statement of Senator Nunn follows:]

STATEMENT OF

SENATOR SAM NUNN

BEFORE THE

SUBCOMMITTEE ON LABOR
OF THE
COMMITTEE ON LABOR AND HUMAN RESOURCES

MARCH 15, 1983

Mr. Chairman, I am pleased to provide this testimony for the Labor Subcommittee's hearings on S. 336, the "Labor-Management Racketeering Act of 1983." As you know, I introduced legislation identical to this bill in the 97th Congress. I introduced this bill in the 98th Congress on February 1, 1983. On both occasions, I was pleased to have you join me as a cosponsor of the bill. To date, we have a total of twelve cosponsors. We all feel that this is a necessary and important piece of legislation, and I want to thank you, Mr. Chairman, as well as the Full Committee and staff, for the prompt scheduling of these hearings.

"The Labor-Management Racketeering Act of 1983" is designed to revise current federal labor law in order to combat the problem of labor corruption. S. 336 is designed to remedy serious problems concerning the infiltration of some unions and employee benefit plans by corrupt officials who have no real concern for the well being of the honest rank and file union members they pretend to represent.

The bill makes any violation of the Taft-Hartley Act involving more than $1,000 a felony, rather than a misdemeanor as under current law, and provides penalties of up to 5 years imprisonment, a fine of $15,000, or both. In addition, the bill provides for the immediate removal of union officials,

employee benefit plan board members and other specified individuals upon conviction for certain enumerated offenses, rather than waiting for the completion of all appeals as under current law. The bill is also designed to strengthen the enforcement of anti-corruption laws by clearly delineating the reponsibility and authority of the Labor Department.

The bill is a direct outgrowth of public hearings on Water-front Corruption held before the Permanent Subcommittee on Investigations in February, 1981. As Ranking Minority Member and former Chairman of that Subcommittee, I directed an extensive staff investigation into criminal activities within the International Longshoremen's Association (ILA) and the American shipping industry. I know that you can recall those hearings, Mr. Chairman, because you and Senator Hatch joined us at that time and actively and effectively participated in our efforts to expose the corruption on our nation's waterfronts. We appreciated your knowledgeable concern and support then as we do now.

The waterfront hearings were the latest in a series of Congressional hearings which go back twenty years to the time when the late Senator John L. McClellan chaired the Permanent Subcommittee on Investigations. Many of us remember vividly the McClellan Committee's investigation which exposed a wide pattern of racketeering and organized crime infiltration of several labor unions, most notably the Teamsters. Those hearings lent considerable support for laws designed to assist in stamping out our labor union corruption.

Actually, the McClellan hearings followed the work of the Kefauver Crime Committee of the early 1950's and its successor, the Subcommittee on Waterfront Racketeering and Port Security of the Senate Commerce Committee. The Kefauver Committee touched on waterfront union corruption and the

Waterfront Subcommittee followed with an extensive investigation in 1953. In its interim report on the New York/New Jersey waterfront, the Subcommittee said of the nation's tough and troubled ridden waterfront:

> For many years these areas have remained lawless frontiers, with segments that have consistantly defied (organized crime) infiltration. Yet they are also bottlenecks for foreign and intercoastal commerce. Here the mob is still entrenched, gorging itself on the flow of shipping, and resisting all attempts to break up what has been characterized as "the last business racket."

The Sucommittee found that:

> Criminals whose long records belie any suggestion that they can be reformed have been monopolizing and controlling positions in the International Longshoremen's Association and its local unions. Under their regimes, gambling, the narcotics traffic, loansharking, shortganging, payroll phantoms, the shakedown in all its various forms -- and the untimately brutality of murder -- have flourished, often virtually unchecked.

The waterfront hearings of 1981 followed a very extensive investigation of waterfront corruption by the United States Department of Justice and the Federal Bureau of Investigation. This investigation, which began in 1975, culminated in the criminal convictions of more than 100 high level officials within the ILA and shipping company industries. These individuals were charged with a wide variety of offenses ranging from Taft-Hartley violations concerning extortions, payoffs and kickbacks to obstruction of justice and income tax evasion. Despite these convictions, reports reaching the Permanent Subcommittee on Investigations indicated that corrupt ILA officials still controlled certain ILA locals and still exerted tremendous influence over the unions international structure.

All of these factors were and remain very disturbing to me, and to the other Members of the Subcommittee, for they pointed to a continuation of the underworld control of our waterfronts that was revealed nearly thirty years ago. If so, had the work of three Senate committees and the tremendous efforts of the Justice Department and the FBI gone for naught?

What emerged was a dismal portrait of a struggle for economic survival in some of this nation's ports; ports which were riddled with an all too familiar and pervasive pattern of illegal kickbacks and payoffs to union officials. Specifically, my colleagues and I heard of payoffs to ensure the award of work contracts, payoffs to maintain contracts already awarded, payoffs to ensure labor peace, payoffs to allow management circumvention of labor strikes, payoffs to prevent the fraudulent filing of workmen's compensation claims, payoffs to expand business activity into new ports, and payoffs to accord certain companies the freedom to circumvent ILA contract requirements with impunity.

Witnesses further explained to the Subcommittee that in the case of waterfront industries a payoff is commonly treated as a mere business expense, which is routinely passed on to the consumer. As a result, our traditional and cherished notions of free enterprise have become nearly non-existent in some of our nation's ports.

An especially disturbing aspect of the Subcommittee investigation clearly suggests that through the system of payoffs, individuals who are recognized leaders of traditional organized crime families influence and effectively dominate the International Longshoremen's Association and large segments of the American shipping industry. We heard that corruption bred by organized crime is still "business as usual" in some port cities. We heard

that certain ILA officials have direct links to organized crime figures in the traditional "mob" families, and that payoff money was often shared with known organized crime criminals.

By virtue of their union office, certain individuals were now in a position to perform feats of corruption. Despite their convictions, many of those individuals had retained their union office when we conducted our hearings, approximately a year and a half later. Today, almost three years later, some of these individuals still hold a union office. George Barone, who was convicted of extortion and racketeering, remains the President of ILA Local 1922 in Miami, Florida. William Boyle and James Vanderwyde, convicted at the same time of similar charges remain, respectively, the Secretary-Treasurer and Office Manager of the same local. Cleveland Turner, also convicted of racketeering and demanding prohibited payments, remains the President of ILA Local 1416, also of Miami, Florida. Landon Williams, convicted of similar charges, remains President of Local 1408 in Jacksonville, Florida.

The influence of corrupt union officials and their organized crime associates is shocking. One of our key witnesses, a Miami shipping executive, told us under oath that he was able to expand his business to Savannah, Georgia, my home state, only by paying off ILA officials in Miami. Those officials arranged a lucrative stevedoring contract and promised him "top quality" labor in Savannah in return for the payoff money. This situation brings home to all Americans the enormous control that organized crime, operating under the guise of union officers, has established over the Atlantic seaboard.

This corrupt activity is not limited to the waterfront nor isolated in time. Last year the Subcommittee conducted public hearings concerning the Hotel Employees and Restaurant Employees Union. Evidence was received concerning the corrupt influence of organized crime in labor-management relations in the hotel and restaurant business and other industries.

As recently as last month, the Subcommittee heard testimony from the United States Labor Department concerning union corruption in the Mid-Atlantic region of the United States. While discussing the Administrations support for this legislation, Robert Magee, Acting Inspector General of the U. S. Department of Labor, testified that over one hundred labor union officials had been convicted through the efforts of the Organized Crime and Racketeering Section of the Office of the Inspector General. He further testified that under current law some of these convicted officials were allowed to remain in positions of influence within their unions for over three years. While discussing the legislation, he concluded by stating "...the immediate benefit to the honest working person, organized labor and unions in general should be apparant."

During the same hearing, the Subcommittee received testimony from the special agents in charge of the Department of Labor's Organized Crime and Racketeering Field Offices in Newark, New Jersey; Camden, New Jersey; and Philadelphia, Pennsylvania. These agents tesitifed that organized crime and corruption influenced, controlled and often dominated various locals of the Teamsters union, Building Trades Council, Bartenders Union, International Longshoremen's Association, Hotel Employees and Restaurant Employees Union, Casino Employees Union and the Roofers Union.

One agent testified concerning an illegal "labor leasing scheme" which was utilized by some local Teamsters officials in parts of California,

Delaware, Missouri, New Jersey, New York, Ohio and Puerto Rico. Those union officials who took part in this illegal scheme enriched themselves through illegal payoffs, while the rank and file union members received reduced wages, reduced benefits, reduced job security and reduced collective bargaining leverage.

Francis Sheeran, then President of Teamsters Local 326 located in Wilmington, Delaware, was one Teamster official convicted for his part in this scheme. Testimony was received at the Subcommittee hearing that during his trial a tape recorded conversation between Sheeran and government informant Charles Allen was introduced into evidence. When Allen questioned Sheeran concerning the possible reaction of his union members because they had not received a contract which Sheeran had diverted away from the union in order to receive a payoff, Sheeran showed his loyalty and concern to his union members by responding "the hell with my union."

Examples of this nature clearly illustrate the abuse by corrupt union officials of their office and the price paid for that abuse by the honest rank and file membership. This legislation responds to that corruption by providing for the immediate removal of corrupt union officials upon conviction and by increasing the penalties for their illegal actions.

As worded, this legislation is identical to S. 1785, the "Labor-Management Racketeering Act of 1981," which was passed by unanimous consent in the Senate on two separate occasions during the last Congress. The bill, which enjoyed wide bipartisan support within the Senate then as it does now, generated enthusiastic support from a wide range of interest outside the Congress. It was publicly endorsed by the Department of Labor, the Department of Justice, Lane Kirkland of the AFL-CIO, and George Lehr, Executive Director of the Teamsters Central States Pension Fund.

Mr. Chairman, it is abundantly clear that the vast majority of union officers, employee benefit plan officials and rank and file union members are honest, hard working, law abiding citizens. Our nation can and should be justifiably proud of the enormous contribution our unions have made to the economic and social strength of the United States. But the evidence has also shown that a small group of parasites has fastened themselves onto the body of the labor movement. These parasites are perverting the true interest of the union members they claim to represent through a pattern of payoffs and extortion. The unions have labored to shed themselves of these people, but in many cases they have been unable to do so alone. I believe that the unions need our help here in Congress.

I believe that this bill is a major step forward in providing the extra assistance needed for the unions to finally rid themselves of the corrupt officials who are motivated not by the welfare of the American worker but by their own greed. Mr. Chairman, I appreciate this opportunity to submit this testimony before your Subcommittee and look forward to working with you and your colleagues on this and other vital matters.

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Senator NICKLES. Our next guest today will be Ray Donovan, Secretary of Labor. Good morning, Mr. Secretary.

Secretary DONOVAN. Good morning, Mr. Chairman.

Senator NICKLES. Mr. Secretary, it is a pleasure for this committee to have you appear before us, again. We very much appreciate the leadership that the Department of Labor has shown and the support you have given on this legislation.

Please proceed with your statement.

STATEMENT OF HON. RAYMOND J. DONOVAN, SECRETARY, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY T. TIMOTHY RYAN, JR., SOLICITOR, U.S. DEPARTMENT OF LABOR, AND JOHN WALSH, DEPUTY ASSISTANT SECRETARY FOR PROGRAM OPERATIONS, LMSA, U.S. DEPARTMENT OF LABOR

Secretary DONOVAN. Thank you, Mr. Chairman and members of the subcommittee. I have with me this morning Tim Ryan, our Solicitor of Labor, and John Walsh from LMSA.

I want to thank you for the opportunity to testify.

Senator NICKLES. Mr. Secretary, could you pull the microphone a little bit closer?

Secretary DONOVAN. Sure.

I want to thank you for the opportunity to testify in support of S. 336, the Labor Management Racketeering Act of 1983. Mr. Chairman, this critical legislation should have been enacted in the 97th Congress. The record supporting its passage was well established in

various hearings before this subcommittee, your full committee, the Senate Permanent Subcommittee on Investigations, and in the House of Representatives before the Oversight Subcommittee of the Committee on Ways and Means, and, finally, before the Subcommittee on Labor-Management Relations.

Also, whenever we testified on a matter relating to either the Landrum-Griffin Act or ERISA statute, we stressed the importance of this additional legislation to our enforcement efforts.

To your credit, Mr. Chairman, and to the credit of Senators Nunn, Rudman, Hatch, and others, the Senate not once, but twice last year passed S. 1785, the predecessor of S. 336. But, unfortunately, the House Labor-Management Relations Subcommittee refused to move on the bill and it died with the adjournment of the 97th Congress.

I am not quite sure what different we can say this year to achieve passage of this vital bill. I am not going to repeat a description of the universe involved. You have no need or inclination, I trust, to hear me tell you again how many participants there are in how many plans and how much the assets of those plans are worth.

You also have no desire for me to sit here and describe for you the specific provisions of the bill and the administration's position on each of them. You know the bill as well as we do and you have heard our positions.

I would, however, like again to note that until Congress acts, individuals convicted of serious crimes will continue to hold positions of power and influence in labor unions and employee benefit plans.

Mr. Chairman, we have heard some minor objections raised to the bill. We do not think any of them are justified and they should not impede the passage of this vital legislation. Let me address them briefly.

Some have stated that S. 336 is unfair; that it punishes union leaders more harshly than business management officials. First of all, to repeat what we have said so many times, we do not view this legislation as punitive. Rather, we view it as protective of the rights and benefits of employee plan participants and beneficiaries and labor organization members.

Second, it is the union officials whose day-to-day activities directly deal with the members' rights. So, naturally, they would be affected more by the legislation. However, I would note that in the Landrum-Griffin portion of the bill, there is language disqualifying an individual convicted of one of the enumerated crimes from serving "in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce."

Let me state that if anyone can think of a management position that would not be covered by that language and which would be appropriate for inclusion because of its responsibility in the area of labor-management relations, to please let us know. To my knowledge, no one to date has done so; unless they do, this criticism, to my mind, bears no weight. Another criticism we have heard is that immediate disqualification upon conviction rather than after the conclusion of the appeals process is not equitable and violates the due process concept.

In response, I would note that both the Landrum-Griffin and ERISA portions provide for the establishment of escrow accounts for the payment of salaries or other moneys which would come due during the period of appeal. Quite frankly, we opposed this position last year because it would cause labor organizations and plans to make double payments, one to the account for the benefit of a disqualified person and the other to the person who was actually performing the work.

However, despite this, the escrow account sections remain in the bill. In light of this, we do not believe that this objection has any merit.

The third objection we have heard is that people convicted of crimes having nothing to do with a labor organization position would be disqualified. For example, a person convicted of assault growing out of an incident totally unrelated to that person's job or position would be disqualified.

This is not our intent. Indeed, S. 336 does not change the present laws in this regard. Further, to deal with this matter, both present law and legislation permit the U.S. Parole Commission to issue an exemption upon a finding that the person's service is not inconsistent with the purposes of the statute.

Finally, we have heard that this legislation is unnecessary because the Racketeer Influence and Corrupt Organization statute of 1970, commonly known as RICO, provides a sufficient remedy for the evils at which S. 336 is directed. This is just not the case.

As you know, RICO permits the Government to seek equitable relief against persons involved in racketeering activity, including removal of convicted union officials, corporate officials, and employee benefit plan trustees. The statute is enforced by the Department of Justice, and we at the Department of Labor applaud their efforts.

In fact, assisted by the excellent work of our Office of Inspector General, the Justice Department is using the law as a tool for the cleansing of corrupt elements and the restoration of union democracy, as evidenced by the current civil litigation involving Teamster Local 560.

However, RICO requires the showing of a pattern of racketeering activity, and the scope of remedies available under the statute is still being defined by the courts. Further, RICO does not provide for the immediate statutory disqualification of persons convicted of a broad range of serious crimes, as would be provided under S. 336, and which is needed for the protection of union members and plan participants and beneficiaries.

We have and will continue to utilize the valuable tools given us by RICO, but it is not enough. When enacted, S. 336, in combination with RICO, would give the Government the tools necessary to use to fight corruption in labor unions and benefit plans.

Mr. Chairman, the weakness of the present relevant statutory provisions resulted in our use of creative legal steps to attempt to achieve full protection for the participants and the beneficiaries of the Teamsters Central States Health and Welfare Fund following the December guilty verdict of the late Mr. Allen Dorfman, along with Roy Williams of the Teamsters Union and two other individuals of a number of crimes.

Let me take a few minutes to briefly describe some of the actions we took. As you know, the Department has had a long-standing concern over the relationship between the fund and Amalgamated Insurance Agency Services, a claims processor controlled by the late Mr. Dorfman.

We have had pending since 1978 a civil suit against this company alleging numerous violations of ERISA. Review of hundreds of thousands of documents revealed additional apparent violations of the act by the trustees of the Teamsters Health and Welfare Fund. The evidence also suggested that Mr. Dorfman and officers of his companies induced, participated in, and profited from these violations.

The Department prepared a new complaint alleging the subsequent violations, but before the complaint was filed, Mr. Dorfman was convicted of conspiracy to commit bribery in a case involving property owned by the Teamsters pension fund.

At his bond hearing, the judge expressed concern that Mr. Dorfman might flee. Fearful that Dorfman's flight would disrupt claims processing by Amalgamated and irreparably harm the 500,000 participants and beneficiaries of the health and welfare fund, and also put Mr. Dorfman's assets beyond the reach of the court, the Department sought and obtained on December 29, 1982 a temporary restraining order freezing his assets and the corporate assets of Amalgamated and its affiliated companies which provide claims processing services to the fund.

The court also granted our request to appoint a receiver for these assets and to assure the orderly continuation of claims processing service. This order was later extended through January 18, 1983.

Unfortunately, the Department was unable to satisfy the court that a continuation of these strong protections was justifiable under ERISA, and the motion for a preliminary injunction was denied on January 18.

However, to insure the continuation of orderly claims processing, the court of appeals, at the request of the Department, extended the receivership until January 24. We were successful in securing further extensions beyond January 24, to allow the health and welfare fund time to negotiate the maximum protection for the participants and beneficiaries under the circumstances.

The negotiations which took place were aimed at providing for a turnover of appropriate assets of the Dorfman-controlled companies to the Teamsters fund and to secure any further judgment against Dorfman's estate and companies by payment of the purchase price for the assets into the court.

These assets included computer hardware, software, and furnishings which would allow the fund to operate its own claims processing system. On February 1, the court entered an order agreed to by the fund and by the Dorfman-controlled entities which provided for the immediate control by the fund of the claims processing system and the removal of the Dorfman-controlled management from that process. The purchase price of $10,750,000 was deposited into the court by the fund.

Mr. Chairman, there remain some unsettled questions which need to be resolved. For example, the Department believes that the sale price of $10.75 million is too high, and we will pursue this

matter. Further, the ultimate sale of the assets is dependent on the granting by the Department of an amended exemption application.

This extraordinary effort evidences our determination to insure protection for the assets of the fund. Let me stress, however, that this matter was extraordinary and we will not have the record that was available in the *Dorfman* case to allow us to pursue such equitable remedies and agreements in most ERISA and Landrum-Griffin cases. This is why we need S. 336 to strengthen the laws so that we will not be limited in our ability to respond in the future.

I should point out that the actions described concerning the Teamsters Central States Fund are only a part of a larger effort by the Department and our Labor-Management Services Administration to enforce ERISA and the Landrum-Griffin Act.

As you are aware, a joint LMSA-Inspector General report was issued on May 1, 1982, which made a number of recommendations to improve the quality of our enforcement activities. Action is being taken to implement the major recommendations set forth in that report.

For example, the position of Deputy Assistant Secretary for Program Operations has been established, and Mr. John Walsh has been appointed to that position. The ERISA Office of Enforcement, the Office of Field Operations, and the LMSA field personnel concerned with ERISA enforcement report directly to the Deputy Assistant Secretary. This coordinated effort will greatly enhance our enforcement abilities.

Further, our field operations staff is now encouraged to look for criminal violations of ERISA and to seek delegation of authority from the Justice Department to conduct criminal investigations in individual cases where it is appropriate. The change in policy should not result in any major lessening of our civil enforcement effort.

I would also point out that in our fiscal year 1984 budget, the administration requested funding for 45 additional positions for ERISA enforcement in the field. Thirty-eight of these positions will be for investigators. We believe that this request is modest when it is considered in the context of the huge employee benefit plan universe.

All of these actions will allow the Department to provide greater protections to all those individuals who look to us for the safeguarding of their ERISA and LMRDA rights. We are, of course, always reviewing our programs to find additional methods to exercise our important responsibilities.

Mr. Chairman, let me conclude by stating that I find it frustrating that it is necessary for me to testify on the labor management racketeering bill once more. But I will do it again and again and again until it becomes law.

No individual has a right to a position as a union or benefit plan official, but union members and plan participants and beneficiaries have every right to know that the officials are worthy of the trust placed on them.

Mr. Chairman, this concludes my prepared statement, and I am accompanied, as I said, by Solicitor of Labor T. Timothy Ryan, on my left, and John Walsh, our Deputy Assistant Secretary of LMSA

for Program Operations. We will be pleased to answer any questions that you may have.

[The prepared statement of Secretary Donovan follows:]

STATEMENT OF RAYMOND J. DONOVAN
SECRETARY OF LABOR
BEFORE THE
SUBCOMMITTEE ON LABOR
COMMITTEE ON LABOR AND HUMAN SERVICES
UNITED STATES SENATE

March 15, 1983

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to testify in support of S. 336, the "Labor Management Racketeering Act of 1983." Mr. Chairman, this critical legislation should have been enacted in the 97th Congress. The record supporting its passage was well established in various hearings before this Subcommittee, your full Committee, the Senate Permanent Subcommittee on Investigations, and in the House of Representatives before the Oversight Subcommittee of the Committee on Ways and Means, and, finally, before the Subcommittee on Labor Management Relations. Also, whenever we testified on a matter relating to either the Landrum-Griffin Act or the ERISA statute, we stressed the importance of this additional legislation to our enforcement efforts.

To your credit, Mr. Chairman, and to the credit of Senators Nunn, Rudman, Hatch, and others, the Senate not once but twice last year passed S. 1785, the predecessor of S. 336. Unfortunately, the House Labor-Management Relations Subcommittee refused to move on the bill, and it died with the adjournment of the 97th Congress.

I am not quite sure what different we can say this year to achieve passage of this vital bill. I am not going to repeat a description of the universe involved. You have no need, or inclination I trust, to hear me tell you again how many participants there are in how many plans and how much the assets of those plans are worth. You also have no desire for me to sit here and describe for you the specific provisions of the bill and the Administration's position on each of them. You know the bill as well as we do, and you have heard our positions.

I would, however, like to again note that until Congress acts, individuals convicted of serious crimes will continue to hold positions of power and influence in labor unions and employee benefit plans.

Mr. Chairman, we have heard some minor objections raised to the bill. We do not think any of them are justified, and they should not impede passage of this vital legislation. Let me address them briefly.

Some have stated that S. 336 is unfair, that it punishes union leaders more harshly than business, management officials. First of all, to repeat what we have said so many, many times, we do not view this legislation as punitive; rather we view it as protective of the rights and benefits of employee plan participants and beneficiaries and labor organization members.

Secondly, it is the union officials whose day-to-day activities directly deal with the members rights, so naturally they would be affected more by the legislation. However, I would note that in the Landrum-Griffin portion of the bill, there is language disqualifying an individual convicted of one of the enumerated crimes from serving "in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce." Let me state that if anyone can think of a management position that would not be covered by that language and which would be appropriate for inclusion because of its responsibility in the area of labor-management relations, to please let us know. To my knowledge, no one to date has done so. Unless they do, this criticism to my mind bears no weight.

Another criticism we have heard is that immediate disqualification upon conviction, rather than after the conclusion of the appeals process, is not equitable and violates the due process concept. In response, I would note that both the Landrum-Griffin and ERISA portions provide for the establishment of escrow accounts for the payment of salaries or other moneys which would come due during the period of appeal. Quite frankly, we opposed this provision last year because it would cause labor organizations and plans to make double

payments--one to the account for the benefit of the disqualified person and the other to the person who is actually performing the work. However, despite this, the escrow account sections remain in the bill. In light of this, we do not believe that this objection has any merit.

A third objection we have heard is that people convicted of crimes having nothing to do with a labor organization position would be disqualified. For example, a person convicted of assault growing out of an incident totally unrelated to that person's job or position would be disqualified. This is not our intent. Indeed, S. 336 does not change the present laws in this regard. Further, to deal with this matter, both present law and the legislation permit the U.S. Parole Commission to issue an exemption upon a finding that the person's service is not inconsistent with the purposes of the statute.

Finally, we have heard this legislation is unnecessary because the Racketeer Influenced and Corrupt Organizations statute of 1970--commonly known as RICO--provides a sufficient remedy for the evils at which S. 336 is directed. This is just not the case.

As you know, RICO permits the Government to seek equitable relief against persons involved in racketeering activity, including removal of convicted union officials, corporate officials, and employee benefit plan trustees. The statute

is enforced by the Department of Justice, and we at the Department of Labor applaud their efforts. In fact, assisted by the excellent work of our Office of Inspector General, the Justice Department is using the law as a tool for the cleansing of corrupt elements and the restoration of union democracy as evidenced by the current civil litigation involving the Teamsters' Local 560. However, RICO requires the showing of a pattern of racketeering activity, and the scope of remedies available under the statute is still being defined by the courts.

Further, RICO does not provide for the immediate statutory disqualification of persons convicted of a broad range of serious crimes as would be provided under S. 336, and which is needed for the protection of union members and plan participants and beneficiaries. We have and will continue to utilize the valuable tools given us by RICO, but it is not enough. When enacted, S. 336 in combination with RICO would give the government the tools necessary to use to fight corruption in labor unions and benefit plans.

Mr. Chairman, the weakness of the present relevant statutory provisions resulted in our use of creative legal steps to attempt to achieve full protection for the participants and beneficiaries of the Teamsters' Central States Health and Welfare Fund following the December guilty verdicts of the

late Mr. Allen Dorfman, along with the Roy Williams of the Teamsters Union and two other individuals, of a number of crimes. Let me take a few minutes to briefly describe some of the actions we took.

As you know, the Department has had a longstanding concern over the relationship between the Fund and Amalgamated Insurance Agency Services, a claims processor controlled by the late Mr. Dorfman. We have had pending since 1978 a civil suit against his company alleging numerous violations of ERISA. Review of hundreds of thousands of documents revealed additional apparent violations of the Act by the trustees of the Teamsters' Health and Welfare Fund. The evidence also suggested that Mr. Dorfman and officers of his companies induced, participated in, and profited from these violations.

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on December 29, 1982 a temporary restraining order freezing his assets and the corporate assets of Amalgamated and its affiliated companies which provide claims processing service to the Fund. The Court also granted our request to appoint a receiver for these assets and to assure the orderly continuation of claims processing service. This order was later extended through January 18, 1983.

Unfortunately, the Department was unable to satisfy the court that a continuation of these strong protections was justifiable under ERISA, and the motion for a preliminary injunction was denied on January 18. However, to ensure the continuation of orderly claims processing, the Court of Appeals, at the request of the Department, extended the receivership until January 24. We were successful in securing further extensions beyond January 24 to allow the Health and Welfare Fund time to negotiate the maximum protection for the participants and beneficiaries under the circumstances.

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Let me conclude, Mr. Chairman, by stating that I find it frustrating that it is necessary for me to testify on the Labor Management Racketeering bill once more. But I will do it again and again and again until it becomes law. No individual has a right to a position as a union or benefit plan official. But union members and plan participants and beneficiaries have every right to know that the officials are worthy of the trust placed on them.

Mr. Chairman, this concludes my prepared statement. I am accompanied by the Solicitor of Labor, T. Timothy Ryan, Jr., and John Walsh, our Deputy Assistant Secretary of LMSA for Program Operations. We will be pleased to answer any questions you many have.

Senator NICKLES. Thank you, Mr. Secretary. We appreciate your cooperation with this committee.

We also welcome Senator Grassley to this committee.

Did you have any opening comments?

Senator GRASSLEY. Not at this point; I might have after a while.

Senator NICKLES. Fine.

Mr. Secretary, I will ask you a couple of questions. There was a recent article in Business Week that stated that the administration, "would not lift a finger to secure passage of the antiracketeering bill." Would you care to comment on that article?

Secretary DONOVAN. Well, Mr. Chairman, I do not know who they are quoting; it certainly does not give a name. I read it with surprise and I put no credibility in it. It is certainly not the administration's position.

Senator NICKLES. I can tell you it caught this Senator by surprise. You are saying that the administration will actively seek and support passage of this legislation?

Secretary DONOVAN. It will.

Senator NICKLES. I appreciate it. I guess clearing up the newspaper confusion that we received, there have been some conflicting articles in the Wall Street Journal dealing with the Labor Department's proposed settlement or nonsettlement dealing with the Central States Pension Fund.

Could you comment on the status of that or if that is correct or not correct?

Secretary DONOVAN. Well, Mr. Chairman, the article appeared in the Journal last Thursday, and we can most kindly describe it as misinformed. We have not approved a proposed settlement of the several lawsuits brought against Central States Pension Fund by the fund beneficiaries and participants.

That litigation, in part, parallels our allegations of asset mismanagement against the former trustees of the fund in *Donovan* v. *Fitzsimmons*. Mr. Chairman, the Journal report said that we had approved the settlement, and that is without foundation.

Further, even if the court approves the settlement over our objections, the Department of Labor will continue to pursue the litigation in the *Fitzsimmons* case.

Senator NICKLES. Thank you very much. Mr. Secretary, I congratulate you and your Department for your efforts to obtain a restraining order against Mr. Dorfman and to freeze the assets of Amalgamated Insurance Co.

Am I correct in assuming that if Senate bill 336 had been enacted last Congress, this procedure would not be necessary?

Secretary DONOVAN. Yes, that is true, Mr. Chairman, and I would like to turn to Tim Ryan, the Solicitor, to tell you exactly why.

Senator NICKLES. Welcome again, Mr. Ryan. Do you have comments?

Mr. RYAN. Yes, I do, Senator Nickles. It is our opinion that had the racketeering bill passed last Congress and been in place, Mr. Dorfman and Amalgamated would most likely have been removed under the provisions of the bill and we would not have had to take the extraordinary actions which we took for the receivership and the request for a temporary restraining order.

Senator NICKLES. Would you comment on your actions to Judge Flom's statement that DOL did not show that Dorfman is a fiduciary as a matter of law under ERISA?

Mr. RYAN. Yes, Senator. Judge Flom, the Federal district court judge in Chicago who was assigned the case involving Amalgamated and Mr. Dorfman, ruled in response to a motion for a preliminary injunction that Mr. Dorfman was not a fiduciary, or it appeared that he was not a fiduciary within the terms of ERISA.

We are confident that after the conclusion of discovery, we will be able to prove that Mr. Dorfman was, in fact, a fiduciary within the terms of ERISA. We are reasonably confident that the record can be established under the existing statute that he was fiduciary.

Senator NICKLES. Would it not be true also that if we pass S. 336, he would be included under the definition and would therefore be prohibited as far as contined management of the fund, or involvement?

Mr. RYAN. As we said before, as far as removal is concerned, our position was that had the racketeering bill passed, Mr. Dorfman would have been disqualified.

Senator NICKLES. You mentioned—and any of you, including Mr. Walsh, can answer these questions—that this approach of freezing their assets was extraordinary. Has the Labor Department ever taken this approach before?

Secretary DONOVAN. Not to my knowledge, and this case was extraordinary, Mr. Chairman, in that the situation as it presented itself gave us an opportunity to go to the court, mainly because the judge in the *Dorfman* case indicated that Mr. Dorfman might flee. That was one major advantage from our point of view in going to the court seeking this injunction.

Second, the independent special counsel, as appointed by the court, Mr. Saxbe, had advised the trustees in light of the conviction that future payments to Dorfman would violate their responsibilities under ERISA.

The fund was therefore on the horns of a dilemma. To continue payments would violate the statute; to cease payments would cause Dorfman to shut down the claims processing operation.

Third, the trustees had evidence that the claims processing operation was already falling behind somewhat dramatically from previous levels of performance, which improved the Department's chances in court.

Finally, there was wiretap evidence which became available which seemed to demonstrate a direct involvement by Mr. Dorfman in an illegal scheme to bribe one of the trustees.

Without all of these factors coming together at once, the Department would have had little chance to win the appointment of the receiver. So, in our judgment, without S. 336, a felony conviction, no matter how serious, would not, standing alone, allow the Department to take effective action.

Senator NICKLES. Is this approach readily available in the future if Senate bill 336 is enacted?

Secretary DONOVAN. It would be; yes.

Senator NICKLES. Since the subsequent murder of Mr. Dorfman, what is the status of your efforts today?

Secretary DONOVAN. Tim?

Mr. RYAN. Senator Nickles, as a result of the very complicated motions litigation in Chicago and the agreement to place the $10.75 million in an escrow account, we are in a position where the new lawsuit, captioned *Donovan* v. *Dorfman*, which will be amended for the estate of Allen Dorfman, and the *Donovan* v. *Robbins* case, which, as you know, is the health and welfare case that was filed in 1978, will most likely go to trial within the next 3 to 4 months.

At that time, we will be trying not only the allegations of imprudence as alleged in the *Robbins* case, the allegations of imprudence and prohibited transactions in the *Dorfman* case, but also the sale price of $10.75 million, which was placed on Amalgamated's assets as a result of a study by Arthur Andersen & Co., and one other accounting firm, and reviewed by Merrill Lynch.

We have taken the position that the $10.75 million figure is too high. It includes in it approximately $4 million for personnel services which we think that is inappropriate and should be removed. So, we will be litigating the validity of the $10.75 million. We will be litigating the *Robbins* case allegations and the allegations as set forth in the *Donovan* v. *Dorfman* case.

The intent will be for the Department to present all of its evidence, to have the $10.75 million reduced, and then to have the claims applied against the $10.75 million be repaid to the fund. If the judgment of the court is in excess of the $10.75 million, or

whatever other figure is set, then we will also attempt to apply that judgment against other assets.

Senator NICKLES. Is there anything in the meantime, in trying to work out this settlement, that would protect those assets now, or are there any assurances that we would have that Amalgamated would be prevented from draining those funds?

Mr. RYAN. The $10.75 million is now in an escrow account which is in the total control of the Federal district court in Chicago. So, at this juncture, there is no fear of any loss in the $10.75 million.

Senator NICKLES. What about the balance in the assets of the trust fund and health fund?

Mr. RYAN. At present, the fund, as the Secretary mentioned, is now running the service provision aspect of the health and welfare fund. As far as any other assets of Mr. Dorfman are concerned, we are looking at that now.

Senator NICKLES. Would the trustees or the other officers of Amalgamated be able to misuse or abuse those funds in this period of time?

Secretary DONOVAN. No, Mr. Chairman.

Senator NICKLES. You have been able to do, basically, what we are trying to do, protect those persons who have invested in those funds from misuse of those funds?

Secretary DONOVAN. Yes; I want to praise the Solicitor and everyone in the Solicitor's Office for the excellent job they did throughout that whole Dorfman matter.

Senator NICKLES. Moving to a slightly different subject, I understand that the Justice Department has primary jurisdiction over RICO. Could you give your opinion of why the RICO statutes are inadequate to deal with the problems of racketeering in unions and also pension benefit plans?

Secretary DONOVAN. Well, I would ask the Justice Department, obviously, to respond to specific questions relating to the RICO statute and its effectiveness. I believe that it is effective. But I remain convinced that a direct statutory disqualification of persons who have committed a broad range of crimes, as S. 336 provides, is the best way to provide the immediate protection of the interests of the American worker and the plan participants, as well as the most efficient tool from the standpoint of economical use of Government resources.

You have to establish, as I understand it, a pattern under RICO of organized crime. In what we are suggesting, it would be a direct statutory disqualification.

Senator NICKLES. Last year, the Labor Department announced that it was going to experiment with a program to decentralize ERISA litigation and informants. Could you give us an update on this program?

Secretary DONOVAN. Yes; we began it in San Francisco; it had a halting start but gathered steam. From what I understand, some positive results have taken place, so much so that we now plan to move it to other areas.

I would ask, again, Tim Ryan and John Walsh to comment on the San Francisco experience and our plans for the extension of the program.

Mr. WALSH. As you know, I have been with the Department since December 1, and I want to express my appreciation to Tim Ryan and his staff for the cooperation which they have extended to me.

We have been meeting regularly with Mr. Ryan's staff and we have been discussing the progress of the decentralization program, and I am satisfied that it is on its way and it is going to work and I am happy with the progress that we have made.

Senator NICKLES. Mr. Walsh or Mr. Ryan, has it led to any increased activity in civil or criminal cases in the San Francisco area under ERISA.

Mr. RYAN. I will take a shot at that. When we first attempted the decentralization on a pilot basis, we did it on a simultaneous basis; that is, the enforcement investigatory staff decentralized at the same time that the lawyers decentralized.

We found from that experiment that there is about a 6- or 7-month lead time between the investigatory activities moving into litigation. Therefore, we are now at a point where we are going to move next to the Boston and Atlanta regional offices on decentralization.

From a result standpoint, initially in San Francisco, we did not see any significant increase in our civil caseload. In the last 6 months, however, we have seen a dramatic increase, so that the number of cases under investigation in the pipeline has gone up almost astronomically.

Senator NICKLES. Is that primarily criminal or civil?

Mr. RYAN. These are mostly civil, Senator. I will let John Walsh discuss the criminal aspects, but the civil cases in the pipeline have almost tripled in the last 6 months.

Senator NICKLES. Is this strictly in San Francisco, or is that nationwide?

Mr. RYAN. This is only on the west coast, Senator Nickles. We expect, though, that once we move to Boston and Atlanta—we will move to Boston first, then Atlanta, trying to build in this 6-month lead time—we expect to see this same type of increase.

From what our people tell us—that is, not only the investigatory people, but the lawyers—the investigators out in the field like to have, quite frankly, their own lawyers present while they are developing a case. This provides them with the input and the background to increase the amount of civil referrals to the Solicitors Office.

Senator NICKLES. One concluding question: Will the focus be primarily on criminal or civil, or a combination of both?

Mr. WALSH. The decentralization project is concerned with civil litigation, and the concept of it is to have attorneys from Mr. Ryan's office available in the regions to handle on-the-spot civil litigation.

When a criminal case comes up in our operation, we discuss that with the U.S. attorney in the jurisdiction where the criminal case will take place. So, the decentralization project is not really concerned with criminal matters.

Senator NICKLES. Mr. Walsh, I compliment you on your report. There were a couple of statements in the report that were mentioned. It says that current enforcement policy is vague, ambiguous, and incomplete, and that the significant case process has re-

sulted in inadequate coverage of smaller plans and an unbalanced enforcement policy.

What has been done to correct that?

Mr. WALSH. We have issued instructions to the field to remove any doubts in their minds that there are restrictions upon the handling of criminal cases. There was ambiguity concerning that.

There was also a program in effect called the significant case program, which required offices to maintain at least two significant cases on their roster of pending cases. We examined that and we found that that really did not have any real bearing as far as the efficiency of the office was concerned. So, we discontinued that program.

It is our intention that as far as significant cases are concerned, we will ask the field to report to us cases which they feel are of such moment that we ought to know what is happening in those cases. But they are not going to be graded and evaluated on how many significant cases they have.

Senator NICKLES. Senator Hatch, do you have questions?

Senator HATCH. Thank you, Mr. Chairman. Before beginning, I would like to commend Secretary Donovan and his staff for the work that they are doing in the area of labor racketeering.

I think Mr. Secretary, that your performance over the last 2 years is evidence that under your stewardship, the Department of Labor is taking seriously its responsibility to protect union members and the union movement and pension plans from labor racketeers and organized crime. I am, personally, very appreciative of the efforts you have made.

I might add, in stark contrast to the record of the previous administrations, you should be proud of your accomplishments over the last 2 years, especially with regard to the *Central States Teamsters Pension Fund* case and the suit involving Allen Dorfman and Roy Williams.

I also would like to compliment Tim Ryan, Mr. Walsh, and others who are affiliated with you for doing what really has not been done before and yet was long overdue.

As you know, our motive in introducing S. 336 would be pointless if the Department of Labor fails to share a relative commitment to the principles of this legislation to ridding the union movement of its criminal elements. At least four major unions in this country are alleged to be controlled by La Cosa Nostra influences. I think your record, Secretary Donovan, and the record established by your Solicitor, Mr. Ryan, are really evidence of the commitment that you have made to the union movement, that you have made to me personally and that you have made to this committee. I am proud to say that I think you are doing a good job.

Now, in your statement you say that your field staff is encouraged to look for criminal violations of ERISA and to seek delegation of authority from the Justice Department to conduct criminal investigations in individual cases where it is appropriate.

As you know, Mr. Secretary, we have conducted hearings that revealed that cooperation between your Department and the Justice Department was not always what it should be. Do you feel that section 5(b) of S. 336, which is entitled "Responsibility for Detecting and Investigating Civil and Criminal Violations of the Employee

Retirement Income Security Act and Related Federal Laws," will enhance your effort to enforce such investigations?

Secretary DONOVAN. If I understand the question, it concerns our relationship vis-a-vis the Justice Department. As you are aware, Senator Hatch, the administration opposed that provision of the bill.

Our investigators have been instructed to pursue criminal violations of our statutes. Should they encounter criminal activity, we will then discuss these with the Justice Department.

We do have, and I am sure you are aware—and it is one of the reasons, I think, that there is a marked difference on the positive side with the past activities of the Labor Department—established a task force very early in the game between the Attorney General and the Secretary of Treasury and myself. This has enabled the three agencies of Government concerned in many of these matters to make sure that we are rowing in the same direction.

There have been many meetings of the task force working group to share information and make sure we were consistent in our views. I think the agreement between Justice and us concerning criminal prosecutions, has been working well.

Senator HATCH. Several opponents of the bill claim that it unfairly penalizes union officials as compared to employer representatives. They claim that to be fair, any corporate employee found violating the covered statutes should not only be barred from the collective bargaining process during the disqualification period, but that such an individual should also be barred from working for the same employer during the disqualification period. Do you feel that such a revision in S. 336 is warranted?

Secretary DONOVAN. As I said in my opening statement, there are, under existing laws and under S. 336, penalties that will be applied to the businesspersons who are involved in these types of stated crimes.

I have asked in my opening statement that if there are any other suggestions to strengthen that section, we would be pleased to hear them. We have not heard them to date. So, I think that under the circumstances, that is the best response we can make to that argument.

Senator HATCH. I see. S. 336 expands the list of prohibited acts which trigger the disqualification period. Nonetheless, the bill would not include perjury and fraud under the list of prohibited acts under the Landrum-Griffin bill, even though they are included already under ERISA. Do you feel that this omission needs to be corrected?

Secretary DONOVAN. Well, when we first testified on the legislation last year, both we and Justice took the position that the crimes listed in both statutes should be combined and made to apply to both.

However, as I have stated, the bill, as passed by the Senate twice last year, meets the administration's major objectives and we urge its enactment.

Senator HATCH. Thank you, Mr. Secretary. I need to go to a Budget Committee caucus and I hate to leave you. But, again, I just want to personally express my gratitude and my congratulations for the work you and your people have been doing. We appreciate

it and we hope to continue to work together in these very important areas.

I also hope that you and I can be advocates for providing law enforcement responsibilities for the Office of Organized Crime and Racketeering in your Inspector General's Office. I think that your people are doing a terrific job there and I think they deserve that kind of support.

Frankly, we think that even if there is a great intent to provide coordinated services among the various Departments of Government, including the Department of Justice, it is still breaking down in the field. Your people need to act with expedition in a number of cases, and presently it is very difficult for them to do so without minimum law enforcement capability or responsibility.

I hope we can work together on this matter and work with this administration. It is easy to see why the Department of Justice would like to keep control over all of these investigations, but when we see the tremendous job your people are doing in the Office of Organized Crime and Racketeering, we want to give them all the teeth we can. Last year there were only seven cases in this area that were investigated by the Justice Department, while you had 275 cases over a 4-year period of time.

This effort is something to encourage in the interests of the working people in this country as well as the rank-and-file worker, to protect them from the rip-offs and racketeering that is occurring within the union movement and elsewhere.

Secretary DONOVAN. Yes; the *Fulton Fish Market* case is a good example of what you point out. I want to thank you, Senator, for the kind words to the Department; they deserve it. In turn, I want to thank you for the cooperation and the pressure where we needed it.

I think we are acting extremely responsibly and taking seriously the tremendous obligations that we have.

Senator HATCH. Thank you; we appreciate it. Thank you, Mr. Chairman.

Senator NICKLES. Thank you, Senator Hatch. Senator Grassley?

Senator GRASSLEY. Mr. Chairman, I have to go to the same caucus that Senator Hatch is going to because I am a member of the Budget Committee as well.

I just want to take this opportunity to say to Secretary Donovan that I followed your efforts to have a dialog with the labor union leaders in Florida in February, and you ought to be complimented for the efforts that you have made. I am sorry that they made it less than easy for you, but I know that you are trying to keep open the lines of communication with labor for this administration.

I would urge you to keep it up because I think, in the long run, the things you are doing are right and right is going to win out. The very least that we should be able to have with anybody is dialog, and I hope that the efforts will be made easier for you in the future.

I would also comment that in regard to this legislation, I am supportive of this legislation. I see it as an effort to help reestablish the credibility of one of the institutions of American society, labor unions, and to reestablish the credibility of labor union leaders.

They are not the only institution of American society that we have to help establish more credibility and work toward establishing that credibility; we in the Congress have our problems as well. But I think wherever we can, we need to do that, and I think this legislation is contributing to that effort.

I see this legislation as not punitive, but as doing just what I said. With that in mind, Mr. Chairman, I have no questions of the Secretary, except to compliment him for his entire effort that he has made. He has had a tough row to hoe these last 2 years, and now that you are by the worst, I wish you success in the time ahead.

I also have a statement that I would like to put in the record.

Senator NICKLES. It will be included in the record at this point

[The prepared statement of Senator Grassley follows:]

PREPARED STATEMENT OF SENATOR GRASSLEY

Mr. Chairman, I commend you on your dilligence in pursuing the passage of this legislation. While I am new to the Labor Committee and this subcommittee, I am familiar with and support the purpose of this bill. I am aware that it passed the Senate twice last year. I am hopeful that we will take immediate action on the Senate floor and pass it in the days ahead.

I have a difficult time comprehending why this legislation would be viewed as antiunion. Why should any entity view a mandate to purge itself of a corrupt few as prejudicial? I have introduced a bill, that is similarly perceived as antilabor when in fact, its purpose is to treat violent strikers just like everyone else within the ambit of the Hobbs Act. Hearings on that bill will occur on March 23 in the Judiciary Subcommittee on Separation of Powers.

I am unsure as to what must be done to ensure passage of S. 336, but I am willing to lend my efforts to the very capable subcommittee chairman, Mr. Nickles, to work with him as he sees fit.

Senator NICKLES. Senator Grassley, we are glad that you are on this committee and look forward to working with you in the years ahead, also.

If you have no further questions, I might ask just a couple of quick questions to Mr. Secretary, Mr. Walsh, and Mr. Ryan. Could you tell us just real briefly what you would consider the accomplishments of 1982 in the ERISA enforcement area?

Mr. WALSH. In fiscal year 1982, we handled approximately 2,100 fiduciary cases. We handled only four criminal cases, and I think that number reflects the restrictions that were imposed at that time. That number, it is estimated, will rise significantly in the following year.

In recoveries, we were successful in recovering approximately $34 million for the pension funds. I think Mr. Ryan can give you some additional information on specific cases that are worthy of some comment.

Secretary DONOVAN. Well, I would like to just state for the record, also, Mr. Chairman, if I might, that we placed a new emphasis on criminal investigations. We delegated new authority to field offices, as we mentioned earlier in testimony.

We dramatically increased the number of lawyers assigned to ERISA enforcement matters, beginning with the decentralization by the Solicitor's Office of its litigation of ERISA cases.

Another is achieving, in *Donovan* v. *Unicorn Group*, the largest monetary settlement to date in the ERISA enforcement action,

some $3.5 million. Also, as John mentioned, we have recovered a total overall of $34 million.

Lastly—and to my mind, I can only compare this to the Job Training Partnership Act as far as my own personal pride is concerned in the Solicitor's Office—we secured the historic consent decree with the Teamsters Pension Fund, the largest multiemployer plan in the United States, which will assure the proper and prudent management of its over $4 billion in assets for the next 10 years or more. That was quite a historic accomplishment by the Department.

Senator NICKLES. Gentlemen, we appreciate your appearance before our committee today. I think there will be a couple of additional questions that we will submit to you to complete the record.

Hopefully, with us working together, we will be able to get it through the Senate again, and hopefully through the House. Thank you very much.

Secretary DONOVAN. Thank you for your kindness, Mr. Chairman.

Senator NICKLES. Our next guest today is Mr. Lowell Jensen, Assistant Attorney General, Criminal Division, Department of Justice.

Mr. Jensen, we appreciate your appearance before us again. Hopefully, it will be the last time on this particular piece of legislation. Please go ahead with your comments.

STATEMENT OF D. LOWELL JENSEN, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. JENSEN. I appreciate that, Mr. Chairman, and it is a privilege to be here and to once again testify on this particular important piece of legislation. I have a prepared statement and I would ask that it would be submitted for the record, and perhaps I could make a comment upon that and then make some specific reference, because I know that the committee is interested in at least one specific aspect of the testimony that is different from that I presented before.

Senator NICKLES. OK.

Mr. JENSEN. As you know, we have presented testimony that is in support of this legislation, and I would like to reiterate that again today.

As far as the areas of the legislation, we of course are in favor of those portions of the legislation which will, in terms of the bribery provision, raise the penalty to an appropriate level, but will do so with a burden of proof and a standard of proof that I think that would be an appropriate way in which to define that kind of activity within the labor field.

I want to make specific reference in my testimony to a specific area that has to do with the forfeiture of office and with perhaps the overlap of this legislation and our suggestions within the testimony of how that should be treated.

Because the Department of Justice believes that labor unions and employee benefit plans must be free of the control or influence of persons who pose a danger to the integrity of such organizations as demonstrated by their conviction of significant crimes, the De-

partment supports those portions of the Labor Management Racketeering bill which would strengthen sections 504 and 1111 of title 29, United States Code, and bring the two companion statutes closer to conformity as to the crimes and the positions covered.

Therefore, the Department of Justice supports those portions of the Labor Management Racketeering bill which would, one, elevate each statute to a felony; second, extend the maximum period of prohibited service under each statute from 5 to 10 years after conviction or after the end of imprisonment, whichever is later; and, third, impose the disability of each statute in all cases immediately upon conviction in the trial court from the date of judgment.

With respect to disqualification pending appeal, recent prosecutions of widespread corruption on the waterfront and in other industries have demonstrated that convicted individuals may continue to hold union or benefit plan office for several months or years while their convictions are pending appeal.

The Federal Bureau of Investigation has prepared a list of convicted individuals who would be barred from holding union or benefit plan positions but for their pending appeals. I understand that similar information has been requested from the Department of Labor. We strongly support the bill's disqualification of individuals immediately upon their conviction in the trial court.

In answer to the question raised by some as to why the Racketeer Influenced Corrupt Organizations, or RICO, statute is not always sufficient to remove convicted individuals from union or benefit plan positions, I would offer the following observations.

First, not all crimes involving union and plan officials are sufficiently pervasive to permit prosecution under the RICO statute. For example, in September 1982 a reputed organized crime leader and three other defendants who then held union office in the Laborers International Union of North America were removed under the forfeiture provisions of RICO at sentencing.

This followed their conviction in Miami, Fla. for a pervasive scheme to obtain kickbacks in return for awarding union-sponsored insurance and health care services.

Senator NICKLES. Was this 1982 or 1972?

Mr. JENSEN. 1982; excuse me.

Senator NICKLES. I just wanted to make sure I heard you right.

Mr. JENSEN. In contrast, Roy Williams, general president of the Teamsters Union, was convicted in Chicago in December 1982 with a reputed organized crime leader and others of conspiracy to bribe a U.S. Senator and other crimes in connection with a scheme involving deregulation in the trucking industry. Because the latter scheme involved a single criminal episode and transaction, the case did not meet Department of Justice guidelines for RICO prosecution.

Senator NICKLES. Could you repeat that?

Mr. JENSEN. Yes; that case did not meet our guidelines for RICO prosecution. Let me explain that. As a relatively new statute, the use of RICO in certain situations has come under considerable criticism from certain quarters.

In order to not abuse or be seen to abuse this powerful statute, the Department of Justice has stressed that the RICO statute should be used only after a careful determination that RICO is the

most appropriate vehicle for prosecution. We believe that sound judgment required that RICO not be used in the Chicago case.

Let me make another point about the RICO statute. It has not been sufficient to immediately remove convicted individuals from office in every case. The reason for that is that prior doubts as to the mandatory character of RICO forfeiture procedures was not resolved by the courts until a series of decisions which flowed from the fifth circuit court of appeals' 1980 opinion in the *L'Hoste* case.

L'Hoste held that a trial judge has no discretionary power to limit or suspend forfeiture of any interest which the convicted individual has acquired or maintained in violation of the RICO statute, or which affords him a source of influence in a racketeering enterprise.

However, while the *L'Hoste* decision requires mandatory forfeiture, the convicted individual may still retain the position ordered forfeited pending appeal. For example, when waterfront union officials were convicted of RICO charges after a 1979 trial in Miami, Fla., the trial court had stayed the execution of forfeiture of the union offices because prior RICO convictions of union officials in the fifth circuit had resulted in the Court of Appeals' stay of forfeiture orders pending appeal.

Another reason why the amendment of 29 U.S.C. 504 and 1111 will be a more effective deterrent of future misconduct in union and benefit plan positions is that RICO forfeiture has no effect on a convicted individual's ability to seek future office or to later reoccupy the same position he has given up.

This is the ruling of the *Rubin* case, which was decided by the court of appeals, fifth circuit, when it upheld the racketeering conviction of Bernard Rubin, the Florida union official and benefit plan trustee. Rubin continued to hold office until he agreed to divest himself of these positions in lieu of withdrawal of bond pending appeal.

At a bond revocation hearing, evidence was submitted that Rubin had continued to misappropriate substantial union and benefit plan moneys after his conviction.

The civil remedies in the RICO statute can be used to prevent a defendant from holding office as part of an action to enjoin him from conducting the same type of racketeering enterprise in the future that he has shown to have conducted in the past.

This kind of relief is now being pursued by the Government as part of civil RICO action against local No. 560 of the Teamsters Union in Union City, N.J. Although a consent judgment has been obtained against convicted former union official Anthony Provenzano permanently barring him from influencing the affairs of any labor union or benefit plan, pretrial procedures in this case delayed the commencement of trial until 10 months after the civil complaint was filed.

Although the commencement of Federal criminal trials is also sometimes delayed for several months after indictment, criminal proceedings do have the definite advantage of the Speedy Trial Act's accelerated docket and much tighter restrictions on pretrial discovery of the Government's proof.

Accordingly, as a practical matter, civil relief under RICO will ordinarily follow criminal prosecution of the same or similar racketeering charges on which any civil action is based.

The RICO statute has come under attack with respect to procedures which could affect removal from office. The House of Delegates of the American Bar Association formally recommended in August 1982, over the Justice Department's opposition, that RICO forfeiture be made a discretionary procedure in the criminal trial court.

Similar criticism which might be directed at immediate removal from office under 29 U.S.C. 504 or 1111 pending appeal can be readily answered, in our view, by the escrow provisions in the labor management racketeering bill.

We agree with the report of the committee last year on the identical proposals that the escrow provision reflects an equitable balance between the interests of the convicted individual during appeal and the interests of union members and benefit plan participants.

Moreover, additional avenues of relief are open to the convicted individual under 29 U.S.C. 504 and 1111 in the form of existing statutory exemptions.

The Department of Justice also supports the Labor Management Racketeering bill's enlargement of the list of disabling crimes in each statute to also include certain offenses involving abuse or misuse of the convicted person's labor organization or employee benefit plan position or employment.

In regard to the Labor Racketeering bill's enlargement of the class of positions protected from potential abuse by convicted persons, we strongly endorse the bill's elimination of the exception for exclusively clerical and custodial employees which is currently found in section 504.

The clerical exception is sometimes used as a vehicle for the rehiring with substantial salaries of convicted individuals who have vacated union office but who continue to exercise the influence and control formerly enjoyed by virtue of the vacated office.

Because a union official who uses his position corruptly may often wield great economic power over his fellow members and the employers with whom his union deals, it is sometimes difficult to prove that a convicted individual is, in fact, exercising more than exclusively clerical duties.

For example, a laborers' union business agent in New York State became a clerk in his local union following conviction for embezzlement of union funds. An undercover investigation by the FBI was required to disclose this individual's continued operation as de facto business manager of the local union, and led to his subsequent conviction for racketeering, receipt of employer payments, obstruction of justice, and further embezzlements.

We also support the elimination of the clerical or custodial exception in section 504 with respect to employees of employer associations.

In summary, for the reasons which I have discussed, the Department of Justice supports the objectives of the Labor Management Racketeering bill proposals, with the exception of the statutory changes in the allocation of investigative resources. That is out-

lined in my testimony and I have already testified on that issue previously.

As I have indicated, the administration may have further suggestions in the near future as to additional proposals which we believe will strengthen the Federal Government's ability to protect the parties to collective bargaining, labor union members and employee benefit plan participants from corrupt elements.

We appreciate this opportunity to comment on the Labor Management Racketeering bill both today and while the Committee continues its deliberations on this excellent proposed legislation in the days ahead.

[The prepared statement of Mr. Jensen follows:]

STATEMENT OF D. LOWELL JENSEN, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

I am pleased to be here today to present the views of the Department of Justice on S.336, a bill entitled the "Labor Management Racketeering Act of 1983."

On February 3, 1982, I testified before this Committee in support of almost identical legislation which was passed by the Senate in the 97th Congress but on which the House of Representatives failed to act. At that time the Department of Justice recommended that the Committee consider certain amendments which we believe will significantly strengthen federal safeguards against corruption both in labor-management relations and in the internal operation of labor unions and employee pension and welfare plans. Later this week we expect that the Administration will forward to the Congress a Comprehensive Crime Control bill which may contain a title in regard to labor racketeering. We expect that some of our proposals made before this Committee last year may be incorporated in the comprehensive bill. We want to assure the Committee that our proposals basically support and are consistent with the Labor Management Racketeering bill.

Increased Penalties for Corrupt Payments to Labor Union Officials

Convictions in recent years involving labor-management corruption on the waterfront and in other industries have demonstrated the continuing need for strong federal

legislation to deter the use of extortion, bribery, and payments involving conflicts of interest among the parties to collective bargaining. Most cases of outright extortion of the parties to collective bargaining may currently result in the imposition of felony sanctions under the Hobbs Act (18 U.S.C. 1951). However, the current penalty for a substantive offense under Section 186 of Title 29 (Section 302 of the Taft-Hartley Act), which is the only federal criminal statute that expressly outlaws bribery and the payment of graft to labor union officials, is limited to a misdemeanor which carries a maximum fine of $10,000, imprisonment for not more than one year, or both. Although a violation of Section 186 also can be a predicate offense for purposes of the Racketeer Influenced and Corrupt Organizations (RICO) Act (18 U.S.C. 1961-1968), prosecution under the latter statute requires a pattern of racketeering activity, whereas Section 186 is aimed at singular criminal acts. In our view, the misdemeanor penalty for an isolated payment or receipt, which may reflect a significant corruption of labor-management relations and which may or may not involve a substantial amount of money, is not always sufficient for the crime. Therefore, we agree with the bill's sponsors that improper payments to union officials in excess of $1,000 involve a high risk of corruption in labor-management relations and deserve the imposition of a felony penalty.

Moreover, the statutory format of the Labor Management Racketeering bill would leave intact the general prohibition against employer payments to labor organizations and representatives found in Section 186 whose continuing operation is necessary for purposes of the criminal and civil enforcement of restrictions on an employer's withholding and payment of union members' dues, contributions to union-sponsored pension and welfare trusts, etc. It would impose a higher burden of proof than under current law in Section 186 for the criminal prosecution of employer payments improperly made to labor unions, pension and welfare plans and labor-management cooperation committees found in the Labor Management Racekteering bill. Because we are aware of only one reported decision concerning the prosecution of the latter kinds of proscribed payments, which do not ordinarily involve employer "payoffs to union officials," the Deparment of Justice, like the AFL-CIO which expressed concern on this subject, believes that it is reasonable to require proof that the individual recipient knew that he was not entitled to the employer payment which was paid for the use of the union, benefit plan, or cooperation committee. However, as paragraph (d)(2) in Section 2 of the Labor Management Racketeering

bill makes clear, no such burden of proof will be imposed with respect to other employer payments which are not transmitted through and used by unions, benefit plans, and cooperation committees; the latter payments will continue to be prosecuted under Section 186 without proof of evil intent or bad motive as under current law.

Amendment of 29 U.S.C. §§504 and 1111: Prohibited Service with Labor Unions and Employee Welfare and Pension Plans

Because the Department of Justice believes that labor unions and employee benefit plans must be free of the control or influence of persons who pose a danger to the integrity of such organizations, as demonstrated by their conviction of significant crimes, the Department supports those portions of the Labor Mangement Racketeering bill which would strengthen Sections 504 and 1111 of Title 29, United States Code, and bring the two companion statutes closer to conformity as to the crimes and positions covered. Therefore, the Department of Justice supports those portions of the Labor Management Racketeering bill which would 1) elevate each statute to a felony; 2) extend the maximum period of prohibited service under each statute from five to ten years after conviction, or after the end of imprisonment, whichever is later; and 3) impose the disability of each statute in all cases immediately upon conviction in the trial court from the date of judgment.

With respect to disqualification pending appeal, recent prosecutions of widespread corruption on the waterfront and in other industries have demonstrated that convicted individuals may continue to hold union or benefit plan office for several months or years while their convictions are pending appeal., The Federal Bureau of Investigation has prepared a list of convicted individuals who would be barred from holding union or benefit plan position but for their pending appeals. I understand that similar information has been requested from the Department of Labor. We strongly support the bill's disqualification of individuals immediately upon their conviction in a trial court.

In answer to the question raised by some as to why the Racketeer Influenced Corrupt Organizations (RICO) statute is not always sufficient to remove convicted individuals from union or benefit plan positions, I would offer the following observations. First, not all crimes involving union and plan officials are sufficiently pervasive to permit prosecution of the crimes as a pattern of racketeering activity under the RICO statute. For example, in September 1982 a reputed organized crime leader and three other defendants who then held union office in the Laborers International Union of North America were removed under the forfeiture provisions of RICO at sentencing. This followed their conviction in Miami, Florida for a pervasive scheme to

obtain kickbacks in return for awarding union-sponsored insurance and health care services. In contrast, Roy Williams, General President of the Teamsters union was convicted in Chicago in December, 1982 with a reputed organized crime leader and others of conspiracy to bribe a United States Senator and other crimes in connection with a scheme involving deregulation in the trucking industry. Because the latter scheme involved a single criminal episode and transaction, the case did not meet Department of Justice guidelines for RICO prosecution.

As a relatively new federal statute, the use of RICO in certain situations has come under considerable criticism from certain quarters. In order to not abuse or be seen to abuse this powerful statute, the Department of Justice has stressed that the RICO statute should be used only after a careful determination that RICO is the most appropriate vehicle for prosecution. We believe that sound judgment required that RICO not be used in the Chicago case.

Parenthetically, the sentencing hearing in the Chicago case will resume on March 21, 1983. The government has filed a memorandum in support of its argument that the court has power under the Federal Probation Act (18 U.S.C. 3651, et seq.) to immediately remove Roy Williams from union office as a condition of a probated sentence if the court

chooses to impose probation for any particular count of which Williams was convicted. Unlike the provisions we are considering here in the Labor Management Racketeering bill, removal is not mandatory. Furthermore, if any union official were to refuse to comply with the removal conditions of such a probated sentence, the primary sanction could be revocation of probation and a sentence to imprisonment. Current law does not prevent the convicted individual from continuing to serve in union office from his prison cell while his appeal is pending.

A second reason why the RICO statute has not been sufficient to immediately remove convicted individuals from office in every case is that prior doubts as to the mandatory character of RICO forfeiture procedures were not resolved by the courts until a series of decisions which flowed from the Fifth Circuit Court of Appeal's 1980 opinion in the L'Hoste case. L'Hoste held that a trial judge has no discretionary power to limit or suspend forfeiture of any interest which the convicted individual has acquired or maintained in violation of the RICO statute or which affords him a source of influence in a racketeering enterprise. However, while the L'Hoste decision requires mandatory forfeiture, the convicted individual may still retain the position ordered forfeited pending appeal. For example, when waterfront union officials were convicted of RICO

charges after a 1979 trial in Miami, Florida, the trial court had stayed the execution of forfeiture of their union offices because prior RICO convictions of union officials in the Fifth Circuit had resulted in the Court of Appeal's stay of forfeiture orders pending appeal.

Another reason why the amendment of 29 U.S.C. 504 and 1111 will be a more effective deterrent of future misconduct in union and benefit plan postions is that RICO forfeiture has no effect on a convicted individual's ability to seek future office or to later reoccupy the same position he has given up. This is the ruling of the Rubin case which was decided by the Court of Appeals, Fifth Circuit, when it upheld the racketeering conviction of Bernard Rubin, the Florida union official and benefit plan trustee. Rubin continued to hold office until he agreed to divest himself of these positions in lieu of withdrawal of bond pending appeal. At a bond revocation hearing, evidence was submitted that Rubin had continued to misappropriate substantial union and benefit plan monies after his conviction.

The civil remedies in the RICO statute (18 U.S.C. 1964) can be used to prevent a defendant from holding office as part of an action to enjoin him from conducting the same type of racketeering enterprise in the future that he is shown to have conducted in the past. This kind of relief is

now being pursued by the government as part of a civil RICO action against Local 560 of the Teamsters Union in Union City, New Jersey. Although a consent judgement has been obtained against convicted former union official Anthony Provenzano permanently barring him from influencing the affairs of any labor union or benefit plan, pre-trial procedures in the case delayed the commencement of trial until 10 months after the civil complaint was filed. Although the commencement of federal criminal trials is also sometimes delayed for several months after indictment, criminal proceedings do have the definite advantages of the Speedy Trial Act's accelerated docket and much tighter restrictions on pre-trial discovery of the government's proof. Accordingly, as a practical matter, civil relief under RICO will ordinarily follow criminal prosecution of the same or similar racketeering charges on which any civil action is based.

The RICO statute has come under attack with respect to procedures which could effect removals from office. The House of Delegates of the American Bar Association formally recommended in August 1982 over the Justice Department's opposition that RICO forfeiture be made a discretionary procedure in the criminal trial court. Similar criticism which might be directed at immediate removal from office under 29 U.S.C. 504 or 1111 pending appeal can be readily

answered in our view by the escrow provisions in the Labor Management Racketeering bill. We agree with the report of the Committee last year on the identical proposal that the escrow provision reflects an equitable balance between the interests of the convicted individual during appeal and the interests of union members and benefit plan participants. Moreover, additional avenues of relief are open to the convicted individual under 29 U.S.C. 504 and 1111 in the form of existing statutory exemptions from disqualification which can result from a full restoration of citizenship rights lost after conviction or action of the U. S. Parole Commission.

The Department of Justice also supports the Labor Management Racketeering bill's enlargement of the list of disabling crimes in each statute to also include certain offenses involving abuse or misuse of the convicted person's labor organization or employee benefit plan position or employment. In regard to the Labor Racketeering bill's enlargement of the class of positions protected from potential abuse by convicted persons, we strongly endorse the bill's elimination of the exception for exclusively clerical and custodial employees which is currently found in Section 504. The clerical exception is sometimes used as a vehicle for the rehiring, with substantial salaries, of convicted individuals who have vacated union office, but who

continue to exercise the influence and control formerly enjoyed by virtue of the vacated office. Because a union official who uses his position corruptly may often wield great economic power over his fellow members and the employers with whom his union deals, it is sometimes difficult to prove that a convicted individual is in fact exercising more than exclusively clerical duties. For example, a Laborers union business agent in New York State became a clerk in his local union following conviction for embezzlement of the union's funds. An undercover investigation by the FBI was required to disclose this individual's continued operation as de facto business manager of the local union and led to his subsequent conviction for racketeering, receipt of employer payments, obstruction of justice, and further embezzlements. We also support the elimination of the clerical or custodial exception in Section 504 with respect to employees of employer associations.

Proposed Authority of the Secretary of Labor to Investigate Violations of Title 18, United States Code

Section 5 of the Labor Management Racketeering bill essentially imposes on the Department of Labor the responsibility and authority to detect and investigate all criminal violations involving employee pension and welfare

plans, including violations of Title 18 of the United States Code. As I advised this Committee last year on February 3, 1982 and the full Senate Labor Committee on February 3, 1983, the Labor Department is already able to investigate Title 18 violations in regard to benefit plans by means of the delegation of such authority by United States Attorneys and the Organized Crime and Racketeering Strike Forces. We believe that system of delegation is functioning smoothly. The Labor Department's responsibility to refer evidence of criminal activity to the Justice Department for further investigation and/or prosecution is already imposed by statute. For the reasons which we more fully set forth in our comments at the February 3, 1982 hearing, we recommend that Section 5 of the Labor Racketeering bill not be enacted.

In summary, for the reasons which I have discussed, the Department of Justice supports the objectives of the Labor Management Racketeering bill proposals with the exception of statutory changes in the allocation of investigative resources. As I have indicated, the Administration may have further suggestions in the near future as to additional proposals which we believe will strengthen the federal government's ability to protect the parties to collective bargaining, labor union members, and employee benefit plan participants from corrupt elements. We appreciate the opportunity to comment on the Labor Management Racketeering bill both today and while the Committee continues its deliberations on the proposed legislation in the days ahead.

Senator NICKLES. Thank you very much, Mr. Jensen. A couple of questions; I do not know if you heard the questioning that I gave to Secretary Donovan, but my first question to him, and I will ask you the same question, dealt with an article that was in Business Week which alleged that the administration plans to do nothing to support or insure passage of this legislation. Would you comment on that?

Mr. JENSEN. The only thing I can say is that I am not familiar with that article; I have not seen it. But to the extent it suggests that there is no support for this bill, I am here today to offer that support; so the article is incorrect.

Senator NICKLES. Well, I appreciate that and I think it is important that be known. Sometimes we do not know where some of these rumors or things that appear in print come from, but I think it is important that we do have a unified administration position in support of S. 336.

You indicated the FBI has a list of convicted individuals who would be barred if this legislation were passed. Do you happen to have a copy of that list with you?

Mr. JENSEN. No; I do not. That is being submitted to the committee in a separate transmission.

Senator NICKLES. I appreciate that.

Mr. JENSEN. It will be there, as I understand it, within the next 8 to 10 days. I am sure that the Bureau will make that submission, but we will make sure that that does occur.

Senator NICKLES. You have no problems with making that a part of the record?

Mr. JENSEN. Not at all.

Senator NICKLES. You made mention of some reasons why RICO is not always available or appropriate to remove convicted individuals from office. The statute states that RICO requires two acts of racketeering activity occurring within 10 years of each other.

Your guidelines state, however, that RICO should be selectively and uniformly used. Could you elaborate on that?

Mr. JENSEN. We have submitted, and they should be made part of the record, the RICO guidelines. The RICO statute is a powerful statute that requires proof of a pervasive pattern of conduct. A specific incident will not support that kind of charge; not only a specific incident, but incidents that are related to a single transaction will not support that charge.

So, if we have a single scheme, it will not support a charge of RICO because of the powerful nature of the statute and the kinds of conduct it is intended to reach. Basically, its appropriateness in terms of your consideration as to the possibility of using RICO in situations that might come under the kinds of concern that are being addressed by the Labor Management Racketeering bill—the point that has to be made is that RICO is a very powerful statute that only applies to unique factual situations and will not apply in many instances where forfeiture of office could otherwise come about by the legislation that is suggested here.

The point is that RICO is not as available, nor should it be, for prosecution and forfeiture of office in these areas as the legislation suggested here. RICO is a unique statute that is dealt with in

terms of its factual premises by very closely monitored guidelines and charging processes. It will in many instances not be available.

Senator NICKLES. You also referenced that RICO has been used in the Laborers International Union and also the Teamsters Local 560. Are there other examples where two acts of racketeering have occurred within 10 years of each other so that RICO was also triggered?

Mr. JENSEN. Well, there are other prosecutions that would be within the same general area that have taken place in the past. We could identify other such cases. These were just examples.

Senator NICKLES. Are you presently prosecuting some other cases under RICO where that is actually the case?

Mr. JENSEN. There are present prosecutions in the country that deal with that. Now, obviously, I could not discuss them, other than the fact that they are charged. But if you are interested in, in effect, a survey of the applicability of RICO charges actually being brought, we could do that.

Senator NICKLES. The RICO suit against local No. 560 was filed about 1 year ago. What is the status now?

Mr. JENSEN. It is still in process; the hearings are still to be held. That was the point I made. That is a civil RICO process which will result in some of the actions that are contemplated by this bill; that is, a potential forfeiture.

But the civil process is such that it takes a good deal of time, so that we are more than 10 months down that track after the case has been filed.

Senator NICKLES. With the civil process under RICO, are you still talking about an extended period of time that could well involve years, and during that period of time you could still have persons still mismanaging pension funds, et cetera, during the appellate process?

Mr. JENSEN. That is correct. In any instance, obviously, the track as far as the court proceedings are concerned would be a lengthy proceeding in a civil case. That is illustrated by that particular filing.

I made the point that you would have to go through a criminal track; criminal cases also can be somewhat delayed, but they are, at least in the criminal area, under the Speedy Trial Act. So, when you go through that process, you can get to the point of conviction in a measurably more expeditious time.

Senator NICKLES. The newspapers contained several articles on tapes that were played at Mr. Williams' sentencing hearing. Are the incidents referred to in these tapes adequate to utilize RICO?

Mr. JENSEN. I would not comment on the evidenciary problem there. I made the comment before that an overall assessment is that there was not sufficient evidence to premise a RICO prosecution there. So, I would not go into any specific areas other than to make that general comment that was shown by the charges that were actually filed.

Senator NICKLES. The same thing for Mr. Dorfman?

Mr. JENSEN. That is correct.

Senator NICKLES. If we had enactment of S. 336, then that would not be the case?

Mr. JENSEN. The point we are making, without going into specific cases, would be that as a conviction is obtained under the Labor Management Racketeering bill, at the point of conviction when judgment is entered by the trial court, then forfeiture would occur at that time.

That would not be the same kind of situation that would attend even under a RICO situation, in that once the RICO forfeiture is ordered, we could have a stay pending appeal. Once the RICO forfeiture occurred, you can reenter the same office. That would not be possible under this bill; that is why we favor this bill.

Senator NICKLES. That is one of the loopholes we have under RICO, because if you did get conviction and forfeiture, then somebody could reenter tomorrow.

Mr. JENSEN. That is correct. Although RICO forfeiture is available, it is not as effective as this bill's definition.

Senator NICKLES. Is it fair to say that civil RICO can extend as long as the appeal, and that under the *L'Hoste* criminal RICO forfeiture of office, it is extended until final appeal, and it would appear that RICO is almost useless in removing convicted officials prior to the date of the last appeal?

Mr. JENSEN. Well, the process, as we have outlined, does extend through that appeal, so that it is not as effective as that which is accomplished in the bill. So, your statement, in effect, states the circumstances and why we favor this bill.

Senator NICKLES. It would be quite possible, under the civil procedures under RICO, where, through the appellate process, you would not be successful in forfeiture of that office?

Mr. JENSEN. You could have a stay; you would have to complete the civil track. You would have to complete it to finality of judgment.

Senator NICKLES. Which could take——

Mr. JENSEN. It could take an extended period of time.

Senator NICKLES. As I understand the Federal Probation Act, Mr. Williams could elect, if probation is imposed, whether to give up his union office as a condition of probation or go to prison and retain his office. Am I correct?

Mr. JENSEN. Well, a condition of probation in any circumstance is that it has to be accepted by the person who is being placed upon probation. If there is no acceptance, then the court's action is to impose a prison sentence; that is correct.

Senator NICKLES. Theoretically, then, he could accept the sentence of the court?

Mr. JENSEN. That, again, is with reference to a pending case and I would not want to speculate on it. But in terms of whether or not you face a situation where you are trying to discuss whether or not the remedy by way of removal from office through a condition of probation is as effective as that which is suggested in the bill, I would simply make the statement that it is not, because the remedy of removal from office by way of condition of probation is not necessarily available to the court.

It is under the control of the defendant in some circumstances. That pact once again simply says that the track suggested here is the most effective track.

Senator NICKLES. I appreciate that comment, and I know you are under a time constraint. I do appreciate the efforts of the Justice Department in working together with us.

I might advise you that Senator Hatch is unavoidably detained at this time. He does have additional questions that he would like to submit to you for your response as soon as possible, and we look forward to also receiving the list of individuals who are involved. When you are able to give that to the committee, we would appreciate that.

Mr. JENSEN. We will provide those responses, and thank you for this opportunity.

Senator NICKLES. Thank you very much.

Our next panelists are representatives from two teamsters locals: Jerry Bliss from Westland, Mich., Teamsters Local 337, Detroit, Mich.; and Frank Greco from Edison City, N.J., a member of Teamsters Local 478, Union City, N.J.; also, Arthur Fox, who is an attorney in Washington, D.C.

Gentlemen, we welcome you before this committee. Would you identify yourselves so I am sure who I am talking to?

Mr. BLISS. I am Jerry Bliss.

Mr. GRECO. I am Frank Greco.

Mr. FOX. Arthur Fox.

Senator NICKLES. Thank you very much. Gentlemen, the acoustics are bad, so if you would pull the microphone closer, it would help me.

Mr. Bliss, would you care to proceed?

STATEMENT OF JERRY BLISS, MEMBER, TEAMSTERS LOCAL 337, DETROIT, MICH.; FRANK GRECO, MEMBER, TEAMSTERS LOCAL 478, UNION CITY, N.J.; AND ARTHUR L. FOX, ATTORNEY, WASHINGTON, D.C.

Mr. BLISS. Yes. I would like to read a brief statement, then proceed from there.

Senator NICKLES. OK.

Mr. BLISS. Mr. Chairman and members of the subcommittee, thank you for giving us this opportunity to address this committee on this important matter. I come before you as someone who knows firsthand some of the problems that Senate bill 336 is designed to deal with.

I was elected secretary-treasurer of local 337 in Detroit in 1980. This is the largest local in Detroit, and the secretary-treasurer position is supposed to be the No. 2 job in the local.

I won election despite a lot of dirty tricks, and some threats, and violence. But after winning, my responsibilities for the job were stripped away. I was paid $500 a month in 1981 for the same position that paid my predecessor $68,528 in 1980.

The man I defeated was quickly given a new title. He is now an international organizer, where he makes even more money. And I might add he serves as an automatic delegate to the Teamsters conventions.

You will not be surprised to hear that today I represent not my local union or the Michigan Joint Council, but the international

reform movement, Teamsters for a Democratic Union [TDU], which I am proud to be a part of.

The main reason we support this legislation was expressed in previous testimony before this committee by Lane Kirkland, president of the AFL–CIO, who stated, "Union office is a calling, not a business."

We feel that union office has to be held in the highest standards of conduct, not the standards of the marketplace. This would not be such a problem if the Teamster officials were willing to establish some internal safeguards of responsibility, but clearly they are not.

I was a delegate to the 1981 convention in Las Vegas, where some other TDU members introduced a motion for an ethical practices committee. It would have been a committee appointed by the top Teamster officials, the General Executive Board, but still the motion was shouted down.

We do not just have a few rotten apples in the barrel; we have a situation where too many rotten apples have moved to the top of the barrel. Let me give you a couple of examples from my area of the country.

All Teamster local unions in Michigan are part of Michigan Joint Council 43. The president of my local, 337, is also the president of Joint Council 43. He is also the fourth international vice president, and has many other posts. His name is Bobby Holmes. The man I mentioned earlier whom I defeated in my union election is his son, Bobby Holmes, Jr.

Bobby Holmes, as head of the joint council, has a man on his payroll as an organizer named Roby Smith. Smith was appointed to his job, which paid $37,671 in 1981. He cannot be voted out by the members.

Roby Smith was previously a business agent for Teamsters Local 299. On April 6, 1977, he was indicted for extortion. The case involved two executives from a steel hauling company and a well known mob leader from Detroit. The four men were charged with making an illegal agreement to let the employer withhold 11 percent of the drivers' pay. On August 2, 1979, Smith was found guilty of extortion and conspiracy.

After his conviction, Smith was let go by local 299, but was quickly hired by Grand Rapids Local 406 at some $38,000 a year. When it became too politically hot for local 406 officials to have this man on the payroll, he was hired in 1979 by Bobby Holmes on the joint council payroll.

You see, joint council officials do not have to be voted on by the members, so a man like Roby Smith can be harbored more safely there. Smith's case has been on appeal since August 1979.

Another top Teamster official in Michigan is Roland McMaster. He was convicted in 1962 of extortion. He was accepting payoffs in the form of rent payments on a broken-down truck parked in an employer's Detroit terminal. He appealed and finally served a prison term in 1966 and 1967.

He went back on the payroll of the union and today is an international organizer, for which he was paid $58,296 in 1981. Again, this is not an elected post, but simply appointed by the general president, currently Roy Williams.

Despite his conviction for taking payoffs from the employer, McMaster is considered one of the most important Teamsters officials in Michigan on such matters as the trucking contract negotiations. He was also an automatic delegate to the 1981 Teamsters Convention, where he could vote on the motion we made for an ethical practices committee.

Smith and McMaster are but two men who would have had a different and shorter union career had this bill been in effect.

Not only are these rotten apples concentrated in high places, but they are largely the same people who have used tactics of intimidation against reform-minded Teamsters who belong to TDU. Tolerance of corruption and resistance to union democracy seem to go hand in hand.

Today, I request that the proposed legislation be passed; it is urgently needed. I would like to comment briefly on a few additional changes which I feel are important if unions are to become truly democratic and free of corruption. I urge that future hearings and legislation address these issues.

Let me explain a little about the Teamster Union structure. We have the right to elect our local union officials every 3 years because it is required by the Landrum-Griffin Act. But the power of the union rests above that level, especially at the international level. We do not have the right to elect our general president or our international officers, and except for a small percentage of certain large locals, we do not have the right to directly elect delegates to the convention.

Officers of locals, joint councils, and internationals serve as convention delegates. The result is that the convention is rubberstamped. I request hearings to consider whether unions must allow members the right to elect officers above the local level.

A second area of concern is the current lack of Landrum-Griffin enforcement by the Department of Labor. The promise of democratic elections is hollow without an effective mechanism to insure that elections are fair.

In my election in 1980 I was elected, but my cocandidates were not so fortunate. Intimidation, the incumbents' use of union resources to campaign, employer collusion, and much more affected the outcome of the election. Yet, in spite of solid evidence of wrongdoing, the Department of Labor refused to set aside the election.

Let me sum up. We know that rank and file Teamsters, thousands who have joined us and hundreds of thousands who have supported us, would like to make this union better and more democratic. We are proud of being unionists and of taking a stand for democracy. We have an uphill struggle.

We support Senate bill 336 as a help to ridding our union of corruption and especially of those officials hiding in appointed positions of power. Our support is not based on the belief that corrupt officials are the rule. They are the exception, but they have great power in some parts of our union.

For the benefit of Teamster members and unionists adversely affected by corruption, we urge the favorable consideration of this legislation. Thank you.

[The prepared statement of Mr. Bliss follows:]

STATEMENT OF JERRY BLISS

Teamsters Local 337

Mr. Chairman and Members of the Subcommittee:

Hello, my name is Jerry Bliss. Thank you for giving us an opportunity to address this Committee on this important matter. I come before you as someone who knows first hand some of the problems that Senate Bill 336 is designed to deal with.

I was elected Secretary-Treasurer of Teamsters Local 337 in Detroit in 1980. This is the largest local in Michigan and the Secretary-Treasurer post is supposed to be the number two job in the local.

I won the election in spite of a lot of dirty tricks and some threats and violence. But after winning, I found out what was in store. All responsibilities for the job were stripped away. I was paid $500 a month in 1981 for the same position that paid my predecessor $68,528 in 1980. The man I defeated was quickly given a new title. He is now an International Organizer where he makes even more money. And I might add, he serves as an automatic, that is non-elected, delegate to the Teamster Conventions.

You will not be surprised to hear, then, that today I am representing not my local union or the Michigan Teamster Joint Council, but the national reform movement of Teamsters, Teamsters for a Democratic Union (TDU), which I am proud to be a part of.

SUPPORT FOR THE LABOR-MANAGEMENT RACKETEERING ACT

The main reason we support this legislation was expressed in previous testimony before this Committee by Lane Kirkland, President of the AFL-CIO, who stated, "Union office is a calling, not a business. We feel that union officers have to be held to the highest standards of conduct, not just the standards of the marketplace. Any officer who abuses the trust of the union membership should not be permitted to stay in power.

This would not be such a problem if our Teamster officials were willing to establish some internal safeguards of responsibility. But clearly they are not willing.

I was a delegate to the 1981 Teamsters Convention in Las Vegas, where some other TDU members introduced a motion to establish an Ethical Practices Committee to look into charges of corruption among Teamster officers. It would have been a committee appointed

by the top Teamster officials, the General Executive Board, but still the motion was shouted down. The people who introduced it were subjected to the usual verbal abuse.

We do not just have a few rotten apples in the barrel. We have a situation where too many rotten apples have moved to the top of the barrel. I should make clear that I believe the vast majority of union officials in this country are honest, hard working, dedicated men and women. I am proud to be a union officer. What we are talking about here is dealing with the minority who abuse the trust of their members.

HIDING IN HIGH PLACES

Let me give you a couple of examples from my area of the country. All the Teamster local unions in Michigan are part of the Michigan Joint Council 43. The President of my local 337 is also President of Joint Council 43. He is also the Fourth International Vice President, and has other posts as well. His name is Bobby Holmes, and the man I mentioned earlier that I defeated in the union election is his son, Bobby Holmes, Jr.

Bobby Holmes, as head of the Joint Council, has a man on the payroll as an organizer named Roby Smith. Smith is appointed to his job, which paid $37,761 in 1981. He cannot be voted out by the members.

Roby Smith was previously a business agent for Teamster Local 299. On April 6, 1977, he was indicted for extortion. The case involved two executives from a steel hauling company and a well-known mob leader from Detroit. The four men were charged with making an agreement to let the employer withhold 11% of the drivers' pay to cover their pension and health and welfare costs. This violated the union contract. On August 2, 1979, Smith was found guilty of extortion and conspiracy.

After his conviction, Smith was let go by Local 299, but was hired on by Grand Rapids Teamster Local 406, at some $38,000 a year. When it became too politically hot for Local 406 officers to have this man on their payroll, he was hired in 1979 by Bobby Holmes on the Joint Council payroll. YOu see, Joint Council officers don't have to be voted on by the members at all, so a man like Roby

Smith can be harbored more safely there. Under the current law, a convicted person may remain on the union payroll pending appeal. Mr. Smith's case has been on appeal since August, 1979.

When I was elected in local 337, Bobby Holmes attacked me at a Joint Council meeting as being a "dissident" and a "troublemaker out to destroy the union." Then Holmes pointed to Roby Smith and said, "Now there's a man who represents the members." This is the same Roby Smith who was convicted of accepting payoffs from employers and mobsters to sell out the rank and file members.

Another top Teamster official in Michigan is Roland McMaster. He was convicted in 1962 of extortion. He was accepting payoffs in the form of "rent" payments on a broken-down truck parked at the employer's Detroit terminal. He appealed, but finally wound up serving a prison term during 1966 and 1967. He went back on the payroll of our union, and today is an International Organizer, for which he was paid $58,296 in 1981. Again, this is not an elected post, simply appointed by the General President, currently Roy Williams.

Despite his conviction for taking a payoff from an employer, McMaster is considered by some the most important Teamster official in Michigan on such matters as the trucking contract negotiations. He was also an automatic delegate to the 1981 Teamster Convention, where he could vote on the motion we made to have an Ethical Practices Committee. We can guess how he voted.

McMaster was nominated for office last year in Local 299, but of the hundreds of members in the room, no one rose to second his nomination. He has no support from the members, the working Teamsters, but is one of the most powerful officials in Michigan. This is just another example of how these people often hide in high places where they cannot be voted out. They are shielded by men like Bobby Holmes and Roy Williams from the members' vote.

Smith and McMaster are but two men who would have had different and shorter union careers, had this bill been in effect. We have had many other powerful figures in Michigan engage in similar conduct. Richard Fitzsimmons, son of the late Teamster President, was also an International Organizer. He pleaded guilty in 1980

to taking payoffs from employers for labor peace, that is, selling out the members for his own gain. Under the current law, Mr. Fitzsimmons is eligible to go back on the union payroll in two short years.

The Bane family members, who controlled Pontiac Local 614 for years, were also convicted of abusing official positions in recent years.

Until recently, Neil Dalton of Saginaw, Michigan was the Vice President of the Michigan Joint Council and head of the statewide grievance procedure for the trucking industry. He was convicted in 1981 of embezzling $40,000 of union members' money. He passed away of a heart attack last year.

Not only are these "rotten apples" concentrated in high places, they are largely the same people who have used tactics of intimidation against reform-minded members who belong to TDU. Tolerance of corruption and resistance to union democracy seem to go hand in hand.

In these cases of corruption I have cited, there have been unscrupulous employers involved, as well as union officials. Reformers frequently find that our problem is collusion between employers and officials, so we believe still more laws are needed to protect working people from all these subversions of the workplace.

Today I request that the proposed legislation be passed. It is urgently needed. It will go a long way to rid our union of the unaccountable officials who have a stranglehold on power, and who, by their unsavory actions, keep the union from reaching its full potential.

I would like to comment briefly on a few additional changes which I feel are important if unions are to become truly democratic and free of corruption. I urge that future hearings and legislation address these issues.

I have emphasized to you that the corrupt officials in our union tend to shield themselves from the membership. We recognize that the best way to clean up corruption is to have an active membership. That is what our TDU movement is all about -- creating an active and informed membership, working to improve our union, to

make it stronger and more democratic.

Let me explain a little about the Teamster Union structure. We have the right to elect our local union officers every three years, because it is required by the LMRDA. But the power in the union now rests above that level, in the hierarchy, especially at the International level. We do not have the right to elect our General President or International officers. And except for a small percentage from certain larger locals, we don't have the right to directly elect delegates to our Convention.

The officers from locals, Joint Councils and the International automatically serve as Convention delegates. At least 53 of the 1981 Convention delegates made over $100,000 from our treasury during 1981, often holding multiple jobs and taking multiple salaries. The result is that the Convention is a rubber stamp. In 1981, for the first time in many years, there was some challenge to the incumbent hierarchy, due to TDU movement efforts. We were there and we did put forward some positive proposals, such as the right to vote for our top officers. Of course, in that stacked Convention, with some 90% of the delegates on the payroll of some union affiliate, our democratic proposals did not have much of a chance. In fact, the delegates approved each and every proposal of the top officers -- hundreds of proposals -- without so much as changing one word.

We request hearings to consider whether unions must allow members the right to elect officers above the local level. We in TDU believe that a democratic, truly representative union -- with official actions subject to rank and file scrutiny -- would be a far stronger union.

A second area of concern is the current lack of LMRDA enforcement by the Department of Labor. The promise of democratic elections is hollow without the effective mechanism to ensure that elections are fair. In my election in 1980, I was elected but my co-candidates were not as fortunate. Intimidation, the incumbents' use of union resources to campaign, employer collusion and much more, affected the outcome of the election. Yet in spite of solid evidence of wrongdoing, the Department of Labor refused to set aside the election. This is only one instance. DOL also does little to prosecute unions which do not comply with the reporting requirements of LMRDA,

and has failed to act on a complaint which we filed concerning the structure of the Teamsters Convention. I am not an attorney and cannot say whether the problem is weak legislation or poor enforcement, but I do know that problems exist.

Let me sum up. We know that the rank and file Teamsters, thousands who have joined us and hundreds of thousands who support us, would like to make our union better and more democratic. We are proud of being unionists and of taking a stand for democracy. We have an uphill struggle. I myself have been fired from my job, harassed, had offers to sell out my principles for a job, the works. But it is worth it to fight for a good, honest, strong union.

We support Senate Bill 336 as a help in ridding our union of corruption and especially of those officials hiding in appointed positions of power. Our support is not based on a belief that corrupt officials are the rule; they are the exception. But they have great power in some parts of our union. For the benefit of Teamster members and the millions of unionists adversely affected by corruption, we urge your favorable consideration of this legislation.

Senator NICKLES. Thank you, Mr. Bliss.
Mr. Greco? Is that Greco?
Mr. GRECO. Greco.
Senator NICKLES. Greco?
Mr. GRECO. Yes.
Senator NICKLES. Go ahead.

Mr. GRECO. Mr. Chairman and members of the committee, good morning. My name is Frank Greco and I am from Edison, N.J. I currently work as a city driver for Consolidated Freightways. I have close to 30 years' experience in the trucking industry as both a city driver and an over-the-road driver and owner-operator.

I am a member of Teamsters Local 478 located in Union, N.J. I am also a member of Teamsters for a Democratic Union, a 10,000-member organization of rank and file Teamsters working to reform the Teamsters Union. At present, I am chairman of the professional drivers council [PROD], of TDU.

As I understand it, S. 336 contains a number of provisions which are crucial for union reform. One, it bars a person convicted of specified crimes from holding any union or benefit fund position. Two, it increases the time period for which persons convicted of certain crimes are barred from office. Three, it provides for disbar-

ment from union positions immediately upon conviction rather than after appeal.

While the proposed legislation is not a complete panacea, its provisions would have helped Teamsters in my area immeasurably to rid the union of corruption. One does not have to look far for examples. I am a member of local 478. My local is in Teamsters Joint Council 73, which is made up of such infamous locals as 945, 863, and 560.

As you know, local 945, which is a prominent force in the garbage and toxic waste disposal industry in New Jersey, has had four of its officers convicted of misuse of benefit funds. The officers remained in their union positions for almost 2 years while their convictions were being appealed. They were instrumental in naming their own replacements. At least one of the replacements is reputably tied to organized crime and is currently under indictment.

Local 863's secretary-treasurer, listed by law enforcement officials as a soldier in the Genovese crime family, is also vice president of Joint Council 73. He is Joseph Pecora, Sr. His son, Thomas Pecora, a company official with Federico Trucking of Edison, N.J., along with James Paone, local 863 business agent and recording secretary, were indicted in July 1982 for racketeering involving hundreds of thousands of dollars in kickbacks and for ripping off the health and welfare fund.

Local 560, for its part, has had so many indictments and convictions that the Justice Department has taken the Provenzano group to court under the civil section of the "Racketeer Influenced Corrupt Organization" statute.

Anthony Provenzano, a reported soldier in the Genovese crime family, is a former 560 official, international vice president, convicted extortionist, and murderer. He stayed in office for almost 3 years while his extortion conviction was appealed.

After serving a 7-year sentence, he returned to office, only to be indicted and convicted of murder. He was replaced by his daughter as secretary-treasurer. Tony's brother, Salvatore, the current local 560 president, Joint Council 73 president, eastern conference official and international vice president, receives $230,000 per year, in addition to numerous perq's.

Salvatore's daughter and six nieces are on the union payroll. Salvatore was indicted twice but never convicted. Another brother, Nunzio, was convicted of crimes and voluntarily chose to step down from office.

Since 1959, the Provenzanos have run local 560 with an iron fist. They have run the local by handing the top position from brother to brother.

Unfortunately, corrupt union officials have not been my only problem. I have the dubious distinction of being a participant in three different pension funds which have been investigated and from which convictions have resulted.

I might add to my testimony that Unicorn, which was one of the convictions they were talking about with ERISA, was in local 701. I was once a member of 701; that is one of them.

Senator NICKLES. Did you say Unicorn or Unirat?

Mr. GRECO. Unicorn. That was with Barry Marlin in local 701. I was also a member of that local.

My own local 478 is similarly floating in a sea of corruption. Ex-president Joseph P. Uzzolino is an example of how racketeering pays off. In May 1980, he was convicted of conspiracy to receive kickbacks and conspiracy to embezzle pension fund assets.

He stayed in office over 2 years while exhausting appeals. When he left office, he was showered with 8 weeks' severance pay, $8,000, plus a Lincoln automobile and health coverage. This was in addition to the $108,000 taken from the members' benefit funds for legal fees.

The corruption is difficult to control. Most members fear for their safety. For example, in 1979 when I tried to get the facts pertaining to the indictments in my local, President Uzzolino called me a liar, a punk, and said I was beneath him. This incited the membership to holler and curse at me and pass a motion to bring me up on internal union charges.

The unholy alliance between labor and management must be broken up. It is crooked management that pays off crooked union officials. It is not just small companies. Local 560 ex-president Nunzio Provenzano's conviction was based on accepting payoffs from some of the largest trucking companies in the country. Union officials look the other way when companies violate the contract, and company officials look the other way when corrupt union officials mismanage the jointly controlled pension and welfare funds.

If not already clear, I would like to emphasize that corruption does not automatically end when convicted union officials and union employees are removed from office. The union's constitution and many locals' bylaws permit union officials to decide who will replace the corrupt officer or employee.

In addition, members do not have the right to elect the union's highest officials. Unfortunately, in the Teamsters Union, corruption is concentrated in some of these higher positions. The result is that one corrupt official often replaces another. The members need the democratic right to elect their officials if corruption is to be ended.

In summary, I enthusiastically support the provisions of S. 336. Under the current laws, convicted officials often bleed the union treasuries and benefit plans while exhausting their court appeals.

Too often, corrupt officials remain, or return, to the union and benefit from positions because of other loopholes in the existing legislation. I do not think that corrupt officials are the rule, but in our union they hold some of the most influential positions. S. 336 will rid the union of many of these characters and will strengthen the union. Your support is strongly encouraged.

In closing, I would like to commend the U.S. Department of Labor, Office of the Inspector General attached to the strike force, for its professional expertise and effectiveness in reducing corruption not only in the unions, but industry and the political arena as well.

Thank you.

Senator NICKLES. Thank you very much, Mr. Greco.

Mr. Fox.

Mr. Fox. Thank you, Senator Nickles. Good morning. I am suffering from laryngitis and if you cannot hear me, just holler and I will try and speak up.

Senator NICKLES. You might pull the microphone very close.

Mr. FOX. As the attorney who helped to launch the Teamsters reform movement by founding——

Senator NICKLES. If you wish, we will enter your statement in the record in full.

Mr. FOX. I appreciate that.

As the attorney who helped to launch the Teamsters reform movement by founding PROD in 1972, and who has since represented countless Teamsters as well as other union members in their efforts to democratize their unions and rid them of corruption, I really do appreciate this opportunity to appear before the committee to support its efforts to assist union members to oust from positions of power, those officers and agents who have been found to have engaged in conduct which is inimical to the interests of the members.

At the outset, I would just like to state the obvious, and that is the accounts of Frank Greco and Jerry Bliss do not even begin to scratch the surface. And while S. 336 is a tremendously important step in the right direction, it should be considered as only a step, and we trust that the Congress will continue to move forward to take a hard look at the deficiencies of the Landrum-Griffin Act and to reform it.

Too often, by the time law enforcement authorities get around to indicting and convicting a corrupt union officer, the cancer has spread. Removal of only one growth is not enough.

The Congress was on the right course when it enacted the Landrum-Griffin Act in the 1950's. Rather than placing the primary responsibility for eradicating union corruption in the hands of law enforcement officers and the courts, it sought to give union members the tools with which to clean up their own unions. Unfortunately, those tools have proven to be inadequate or unworkable.

One critical oversight was Congress failure to establish any procedural safeguards for the enactment, or amendment of union constitutions and bylaws. Indeed, the act does not even guarantee union members a right to vote, by secret ballot or otherwise, on these critical governing instruments. A result is that these documents are often the source of the difficulties Mr. Bliss and Mr. Greco have outlined. Officers and their legal counsel draw up documents which put the membership in a sort of legal straitjacket. I urge the committee to turn its attention to this and other problems with the Landrum-Griffin Act at the earliest opportunity or many of the potential remedial effects of S. 336 will never be realized.

If I may, I would like to take this opportunity to call the committee's attention to some technical difficulties with S. 336, as currently drafted.

Upon conviction of a number of offenses, the bill would cause an officer or agent's immediate removal from a position in a union or trust fund. But the bill would compel the union or fund to continue to pay the individual's salary, albeit into an escrow account.

I frankly do not think that the Congress should be in the business of ordering union members, or fund participants or beneficiaries, to pay someone for services that are not rendered. Such an order might even raise constitutional questions; for example, taking property without due process of law.

As a practical matter, many union constitutions provide that whenever an office is vacated for any reason, it must be filled either by appointment or special election. Thus, it is likely that upon conviction and removal of a union officer pursuant to this bill, many, if not most positions will be filled by other individuals. The replacement will undoubtedly qualify to draw a salary. If a like sum of money must also be placed into an escrow account which the convicted officer might be able later to claim, the union member or fund participant will, in effect, be taxed twice for services of only a single individual.

While we are not unsympathetic to the interests of those officers who may indeed have been innocent of criminal conduct, we are concerned lest the Congress overlook the equally compelling interests of the hard-working men and women in this country whom the Congress would effectively be taxing what would amount to, in some cases, an exceptionally generous salary in exchange for no benefit whatsoever.

A better balance needs to be struck between these conflicting interests. At the very least, we would suggest that the creation and funding of escrow accounts be made permissive, not mandatory; permissive, that is, as a result of a constitutional or a bylaw provision enacted by a genuinely democratic vote of members.

The Congress might also want to clarify that payments into such funds would continue only so long as the officer's term of elected office. In the case of appointed agents, contributions might terminate at the end of the term of the officers who appointed them.

Second, the bill is silent as to contributions into pension funds or receipt of funds from pension or severance trusts funded by those to whom the officer or agent owed a fiduciary duty.

Once again, if the members, in a genuinely democratic vote, decide to place the officer's salary in an escrow account, they should also be able to elect to place pension contributions into a similar account. But we must also address ourselves to the officer's right to receive payments from trusts and pensions during his period of suspension, and even thereafter.

Under the common law of trusts, whenever a fiduciary breaches the absolute loyalty owed to the beneficiary, a constructive trust in favor of the beneficiary is imposed upon all funds the fiduciary received from the trust; namely, from the union or pension fund. These funds then revert to the beneficiary.

Too often, as in the case of Tony Provenzano, for example, an officer who has been indicted arranges the creation of a private trust fund or the payment of so-called deferred wages or vacation benefits during the period of his jail sentence or disqualification. This type of end run on the law must be stopped. We believe that the Congress should specify that the common law doctrine of constructive trusts should be extended to union and employee benefit fund fiduciaries.

Third, another problem is that while officers may lose their titles, they sometimes retain at least some of the perquisites of office. They may stay on even in unpaid positions as chauffeurs. They may be given an office, a telephone, use of the limousine and other vehicles, even aircraft, all while they are supposedly disqualified from holding any position of trust.

Of course, chauffeurs do not ordinarily call the shots for the man in the back seat. However, when it comes to evading the law, as they say, where there is a will there is a way.

I hope the committee will clarify that when an officer or agent is suspended or ultimately disqualified from holding office, he must also be denied all perquisites of his former union or fund position.

Point four. The bill states in section 11 that, and I am quoting now, upon "final reversal of a person's conviction on appeal, the amounts in escrow shall be paid to him and he shall no longer be barred from assuming any position he was previously barred from."

I hope the word "final" will be clarified so that the Justice Department will have the opportunity either to retry a case reversed on appeal or to petition for reconsideration, or even certiorari, before the officer becomes entitled either to receive any escrow funds or to resume any union office.

To illustrate my next point, I would like to pose a question. Should an officer who succeeds in having his conviction overturned on appeal be entitled to automatically step back into his former office? We submit that he should not.

Consider the case of Roy Williams, the recently convicted president of the International Brotherhood of Teamsters. Williams will undoubtedly appeal his conviction, probably with the aid of members' dues. If Williams' conviction is reversed, it will most likely be due to the over-breadth of the wiretap which produced the evidence used to convict him, not because he did not commit a crime or engage in conduct in breach of his fiduciary duty as a union officer.

The fact is that in order to safeguard every citizen's constitutional rights, our courts will dismiss indictments, suppress evidence, and ultimately overturn convictions not because the accused individual is innocent, but rather in order to discourage law enforcement officials from overstepping any of the many judicially evolved obstacles designed to discourage them from infringing citizens' constitutional rights.

So I ask, should Roy Williams or any other union officer or agent be relieved of every negative consequence of his conviction if he is able to obtain reversal of a conviction?

We do not believe that an officer, once convicted, should be able so easily to erase from history the fact of his conviction for engaging in conduct demonstrating that he is unworthy of the fiduciary trust reposed in him.

Assuming the convicted officer's position is still vacant when his conviction is reversed, we submit that the officer should, at the very least, have to stand for election before becoming eligible to resume his post. If the position is not one which requires membership approval, it should nonetheless be obtained before an agent becomes eligible to resume his former, or any other position. If the office or position has been filed, the officer should be allowed to run during the next regularly scheduled election, whenever that might be, but not sooner.

Incidentally, section 401(h) of the Landrum-Griffin Act does call for special elections to be conducted by the Department of Labor to determine whether officers guilty of serious misconduct in union office should be recalled. Hence, there is a type of legislative prece-

dent for this approach that would require a convicted officer to submit himself to the democratic process.

Point 5, suppose a union elects not to fill a vacancy created by the removal of a convicted officer, and that while the officer's appeal is pending, there is a new round of elections mandated by the Landrum-Griffin Act—3 years for local, 4 years for intermediate, and five years for national officers.

Is the officer eligible to run on a write-in campaign or otherwise for the position even though he is suspended pending appeal? We submit that he should not be able to do so, but we cannot find clear authority for this position in the bill as drafted and we hope this point will also be clarified.

My final point concerns use of the fifth amendment by union officers and trust fund fiduciaries. As between a citizen and his Government, the U.S. Constitution does protect the right of the citizen to refrain from incriminating himself without adverse consequences. However, while assertion of this right may not prejudice his constitutional rights, a citizen is not privileged to hide behind the fifth amendment in civil litigation without any negative inference. Indeed, in a civil case one may assume that if the witness were to testify, his testimony would be adverse to his interests.

The Constitution does not, of course, protect the right of a union officer to remain in an elected position of trust. Indeed, we submit that when an officer or trustee pleads the fifth amendment in response to any interrogation concerning his conduct in union office, or as a trustee, a negative inference should be drawn, as it is in civil litigation.

It should be assumed that were the officer to testify, he would say that his conduct violated the fiduciary duty owed by him to his union members or beneficiaries, and he should accordingly be removed from office automatically once again.

Incidentally, this is not a penalty; it is simply the price a fiduciary must pay under the common law. This law imposes upon trustees a duty always to fully disclose their conduct to beneficiaries. And if they, as citizens, wish to avoid self-incrimination and the criminal consequences that would flow from their testimony, they are certainly entitled to do so. But they should not have their cake and eat it, too.

While this concludes my formal remarks, I did hear a question posed earlier to Secretary Donovan, and concerning the disparate impact of the bill on unions. It is an interesting question, and I did not hear the answer that I would like to share with the committee.

In the first place, we regret the fact that there is not a better way to penalize employer representatives, because after all it takes two to tango and we do not think that they are any less guilty.

The problem, however, is that union office, basically, is an elected position which brings with it very high fiduciary obligations. It is one thing to say that a union officer who has violated this trust should be removed from the position of trust. It is an entirely different thing to say that an employee of a corporation, who does not owe any similar duty, should be fired from his job.

We do not necessarily advocate the disparity, but we do call the committee's attention to the fact that the law does apply in a dis-

parate way. Therefore, there is no reason for the committee not to perpetuate that process.

That concludes our remarks. If you have any other questions, I would be happy to answer them, either now or in the future in written form.

Senator NICKLES. Thank you, Mr. Fox.

We have a vote at this time. I might proceed with questions. I have about 5 minutes, and if we get far enough along at that time we will adjourn. If not, I will vote and come back.

Mr. Bliss, we will start with your statement. I realize that both you and Mr. Greco are members of the Teamsters Union and you are also members of the Teamsters Democratic Union.

Mr. BLISS. Yes.

Mr. GRECO. Yes.

Senator NICKLES. How many Teamsters are there altogether?

Mr. BLISS. I believe the number right now is about 1.9 million.

Senator NICKLES. Do you think those 1.9 million Teamsters would support this type of legislation?

Mr. BLISS. I think so; I really do.

Mr. GRECO. If they had all the facts.

Mr. BLISS. I think if the rank and file were given the right to vote Mr. Roy Williams in office—I think if it would have been one member, one vote, I do not think Mr. Williams would be in office today.

Senator NICKLES. I might advise you and others that we did invite the Teamsters representative from the International Brotherhood of Teamsters to be present today. I might comment on part of my comments to them. One paragraph says, "Since you are the most vocal in opposing this legislation, I particularly solicit your comments." I also advised them that you would be here.

I am disappointed that they elected not to be present because I would like to find out why they have opposed passage of this legislation, because we have visited with other Teamsters members and have found fairly strong support amongst the rank and file; possibly not the hierarchy, but certainly amongst the rank and file.

Mr. Bliss, you mentioned in your statement that the man you replaced as secretary-treasurer has now been rehired. You were elected. The position that he had was paying, what, $68,000, and your position as secretary-treasurer only pays $6,000?

Mr. BLISS. A year, yes. I get $500 a month. He made $68,000-some the year before I was elected, plus the car. You know, he got a new Continental and several other benefits. But since I was what they call a radical—I ran on the TDU slate, and because I believe in taking the side of the rank and file and not the hierarchy, my position was reduced to practically nothing.

I sit on the executive board, I sign the per capita, and that is about the extent of my duties.

Senator NICKLES. Is secretary-treasurer a full-time position?

Mr. BLISS. Local 337 has been in existence for over 40 years, and for over 40 years the secretary-treasurer had been a full-time position until I was elected in 1981.

Senator NICKLES. Because they reduced the salary and maybe some of the functions of your office, do you find that you have to have outside employment or work as a Teamster?

Mr. BLISS. Right. I work in a warehouse, but they violated the constitution and also the bylaws by cutting my position. I have written several letters to Mr. Holmes saying that the duties in the bylaws themselves that encompass my job are not being followed. The bylaws are being violated, the constitution is being violated, and they are getting away with it.

Senator NICKLES. Did the local that you were elected secretary-treasurer of vote to reduce your compensation?

Mr. BLISS. Not at all, no. Actually, Bobby Holmes himself took it upon himself to reduce it. What he said is I am not a business agent, but that would not have been so bad if that was all he would have taken was my business agent position. But he took all my duties away from me.

He even wrote me a letter that said I am not in charge of the finances of that local. Yet I am the secretary-treasurer of the local.

Senator NICKLES. It is apparent to me that I am not going to quite finish this line of questioning.

Mr. FOX. Senator Nickles, could I interject a thought while we are still on that subject? It is simply this: Unfortunately, the Landrum-Griffin Act gives union members the right to vote in only two situations—the right to vote for officers and the right to vote on dues and assessments.

The law does not give members the right to vote on these critical governing documents, the constitution and bylaws. These documents are usually drafted by the power structure or the incumbent union officers and their attorneys, by and for their own benefit, and not the benefit of the members. And they are easily manipulated without rank and file participation. I suspect that is what happened in local 337.

Senator NICKLES. We will recess. It will probably take about 10 or 15 minutes for me to vote and be back, and we will take it right up from that point.

Mr. FOX. Thank you.

Senator NICKLES. We stand adjourned for 15 minutes.

[Whereupon, a brief recess was taken.]

Senator NICKLES. Excuse the delay. We are in the process now where we will have several votes, but I am sure we will have enough time to finish this line of questioning.

Mr. Bliss, to go back to you, you mentioned that the individual's name whom you replaced was Bobby Holmes, Jr.?

Mr. BLISS. Yes.

Senator NICKLES. He was not elected?

Mr. BLISS. No; he was elected. He was elected the year before.

Senator NICKLES. OK.

Mr. BLISS. It is not elected. He is an international organizer.

Senator NICKLES. What is his salary now?

Mr. BLISS. Last year, it was around $70,000.

Senator NICKLES. So, he continues to receive the $60,000 or $70,000, but you do not?

Mr. BLISS. Right.

Senator NICKLES. What do the fellow members who voted for you in that position think about that?

Mr. BLISS. Well, they are very upset, and the election is coming up this year and I plan on running against Bobby Holmes, Sr., this year, and then we will see what they think about it.

Senator NICKLES. When is the election?

Mr. BLISS. November of this year.

Senator NICKLES. He is the president?

Mr. BLISS. Right.

Senator NICKLES. That is the one position that is higher than the secretary-treasurer?

Mr. BLISS. That is right.

Senator NICKLES. Bobby Holmes, Sr., was able to put Bobby Holmes, Jr., into a position that was—what was the title?

Mr. BLISS. International organizer.

Senator NICKLES. International organizer?

Mr. BLISS. Right. That is a position appointed by the president of the International, Roy Williams.

Senator NICKLES. That was appointed by Roy Williams?

Mr. BLISS. Actually, yes, but I am sure his father being a vice president had a little——

Actually, the president when he was appointed was——

Mr. FOX. Frank Fitzsimmons.

Mr. BLISS. Frank Fitzsimmons; how quickly we forget.

Senator NICKLES. You also stated that you were a delegate to the 1981 Teamsters convention. Mr. Williams was elected at that time. Would you tell us your experiences at the convention?

Mr. BLISS. Well, as a TDU delegate, we put several proposals on the floor for the rank and file, such as increased strike benefits. We also put the ethical practices resolution on the floor. Everything we put on the floor was booed and shouted down. Yet each and every proposal that was put on the floor by the hierarchy was passed without any trouble whatsoever.

Senator NICKLES. Did Mr. Williams have any opponents?

Mr. BLISS. Yes; Pete Camarata, who is a TDU member.

Senator NICKLES. How did the voting take place?

Mr. BLISS. We had a standup vote, a rollcall vote. But in the process of the rollcall vote, we felt it was better, since we really did not have a chance to win—we knew that from the beginning—we started the rollcall vote, but then called it off in the middle. We were ridiculed for calling it off because we wanted to save people time.

Pete Camarata only got 10 votes up to the time we called it off. But like I said before, I am sure that if it were one member, one vote, Roy Williams would not have gotten in. There would have probably been other candidates.

The problem with the system is you elect an officer 2 or 3 years before the convention, and this officer is automatically a delegate to the convention. You are allowed one delegate sent to the convention for the first 1,375 members. Then, for every additional 750 members in your local you are allowed another delegate.

That means if you have 5,875 members in your local the whole 7-member executive board would go to the convention. Then, above that, the additional delegates are elected by the members; you have an election. The rank and file would come into play then.

Mr. Fox. Senator Nickles, the long and the short of it is this: the overwhelming majority of the delegates to a Teamsters convention, which writes the constitution and elects the officers, are local union officers who are elected not to go to the convention to vote for or against anything, but rather to administer collective bargaining contracts.

They are designated in the Teamster constitution as delegates automatically by virtue of the fact that they were elected to local union office. The result is that most Teamsters conventions, most approximately resemble a circus where the——

Senator NICKLES. Is that similar to Congress?

Mr. Fox. Your comment, sir, not mine. [Laughter.]

When it comes time to elect the officers, even if delegates would prefer deep in their hearts to vote against Roy Williams and in favor of a reform candidate, they will not dare to do so because the power in that union flows from the top down, rather than the bottom up; each of the delegates, as a local union officer, is beholden to the international hierarchy.

Hence, when they are asked to stand up and be counted, they will always stand up and be counted for the incumbent union officer. If there were a secret ballot process even among these individuals who are still beholden to the international hierarchy, I dare say that there would be a substantial number of votes for a reform candidate, if not a majority.

So, the whole process is legally structured to perpetuate the status quo.

Senator NICKLES. Thank you, Mr. Fox.

Mr. Bliss, you mentioned that Roland McMaster served a prison term in 1966 or 1967?

Mr. BLISS. Yes.

Senator NICKLES. And he is today an international organizer. The current debarment period is 5 years; we increase that up to 10 years in our legislation. Is it common for convicted individuals to be placed back on the payroll as soon as this time period expires?

Mr. BLISS. Yes; is it common to put them on the payroll.

Senator NICKLES. You also mentioned that he could not be voted out of office. Could you explain that?

Mr. BLISS. Well, he was appointed. All international organizers are appointed by Roy Williams or whoever is the general president at the time. He cannot be voted on by the members.

That is just like Roby Smith, whom I mentioned; he was appointed as an organizer for the joint council and he is not voted on by the members either. These are appointed positions, not officers that can be voted on.

Senator NICKLES. Looking at Roby Smith, who was found guilty of extortion and conspiracy in 1979, he was let go by that local, but then he was hired on by a separate local in Grand Rapids.

Mr. BLISS. Right.

Senator NICKLES. Then you say it became too politically hot for that local at Grand Rapids, so he was then hired by Bobby Jones to be on the joint council payroll?

Mr. BLISS. Bobby Holmes.

Senator NICKLES. Bobby Holmes; excuse me.

Mr. BLISS. Yes; he is a joint council organizer. He helps with things like DRIVE.

Senator NICKLES. But he was too hot for Grand Rapids. In other words, they did not want to have a convicted felon in Grand Rapids?

Mr. BLISS. He was a business agent for the Grand Rapids local, and that is a job where, you know, you work with the rank and file, and such. They did not want to have somebody there where the case was too damaging to them. So, they moved him out of there and Bobby Holmes picked him up.

By the way, Bobby Holmes kind of oversees the whole State because he is the joint council president, which encompasses all of Michigan.

Senator NICKLES. He was found guilty in August 1979?

Mr. BLISS. Right.

Senator NICKLES. And this local was in Detroit?

Mr. BLISS. In 1979, that was 299; that is in Detroit, yes.

Senator NICKLES. The Detroit local let him go, and then 406 at Grand Rapids let him go. Then Bobby Holmes picked him up on the joint council payroll.

Mr. BLISS. Right.

Senator NICKLES. He was found guilty of extortion and conspiracy. Is he on appeal?

Mr. BLISS. Yes; he is. Until this day, he is still on appeal.

Senator NICKLES. Do you know what his salary is now?

Mr. BLISS. No; I am not sure.

Senator NICKLES. This says his case has been on appeal since August 1979.

Mr. Greco, do you fear for your safety—I will direct that to you, Mr. Greco, but anybody else can comment on it—do you fear for your safety when you give testimony talking about the Provenzanos or talking about Bobby Holmes or talking about any other individual here?

Mr. GRECO. Yes.

Senator NICKLES. Would you care to elaborate on that any further?

Mr. GRECO. Well, you never know how far you can go before they decide that you have done enough; you just do not know. When you start mentioning names such as the Provenzanos and the Genovese crime family, I think you are on very thin ice.

Senator NICKLES. Anthony Provenzano was convicted of murder, is that not correct?

Mr. GRECO. That is right.

Senator NICKLES. When was that conviction?

Mr. GRECO. I believe it was in 1979 and it was for a murder in 1961.

Senator NICKLES. He is serving time for that at the present time, is he not?

Mr. GRECO. Yes.

Senator NICKLES. Is he still on salary?

Mr. GRECO. There seems to be a situation where he is drawing moneys that he was given as deferred payment, or something of that nature. When he went to prison the first time, his handpicked executive board voted him a salary that I think was $100,000;

which was higher than the President of the United States at the time.

When he was in prison the first time in the early 1960's, he drew, I think, $25,000 a year on that. During this jail term—I think it was in the 1981 LM-2 forms that he drew $28,000 a year. Whether this is a carryover or what, we are not sure. But I know that the U.S. attorney is trying to take action against that.

He does draw salaries, and he has drawn moneys despite the fact that he has got all the convictions.

Senator NICKLES. And despite the fact that he is in prison?

Mr. GRECO. And despite the fact that he is in prison.

Senator NICKLES. Did you say his daughter?

Mr. GRECO. His daughter, Josephine, took his position. There is a beautiful article that was written about the depositions that were given at the civil RICO hearings. She admitted she did not even know how much money a year she was getting; she knew nothing about the master freight agreement. This was right in her deposition.

She thought she was getting $55,000 a year; she did not know she was getting $65,000 a year. There are some real scary answers in there about organized crime figures. Salvatore Provenzano made the statement that he thought the membership would feel good about the fact that they had somebody of her stature.

There is a history of violence in that area that has been directed at the rank and file, and that carries over into day-to-day activities. People talk to you and they will talk to you in private, but they will not support you publicly, whether it is at a union meeting or anything else.

This violence has been engrained in people. We have been conditioned to believe something could happen.

Senator NICKLES. If they speak out on that type of activity, they are afraid for their safety?

Mr. GRECO. Yes. I mean, I know how my family feels about what I do. I have got the responsibility of a wife and two children who are now grown up. One of them is in the Air Force. He is over in England now; he is a Strategic Air Command pilot. He is over there defending democracy; hell, we do not have democracy right here under our noses in our own unions that we have to pay for. You know, we had to bring up two sons in this environment the last 8 years that I have been in this.

Senator NICKLES. Anthony Provenzano went to prison the first time and then a second time. Now, his daughter is presently the——

Mr. GRECO. The secretary-treasurer.

Senator NICKLES. Who is the president?

Mr. GRECO. Salvatore has returned to the presidency because Nunzio was convicted, and part of the legal process was that he would resign from the union altogether while he is exhausting his appeals. So, Salvatore went in to replace Nunzio after his conviction.

Senator NICKLES. So you had Anthony, is that correct?

Mr. GRECO. Yes, Anthony.

Senator NICKLES. And then Nunzio?

Mr. GRECO. And then Nunzio took his place as the president. They have been shuffling these officerships in 560 through the three brothers. Now, the last time when Anthony went to jail, they brought in the daughter of Anthony, who is Josephine, and made her secretary-treasurer.

Senator NICKLES. And Salvatore now is the president?

Mr. GRECO. He is the president, yes.

Senator NICKLES. Was he elected?

Mr. GRECO. Well, they are usually in by acclamation because nobody ever runs against them. There has not been an election there since the midsixties, I believe it was; that was the last election they held.

Senator NICKLES. No one dared to run and no one did run against Salvatore?

Mr. GRECO. No.

Senator NICKLES. And Salvatore's compensation?

Mr. GRECO. It is $230,000 a year in salary and other things, and then besides that he has the perq's coming.

Senator NICKLES. That is not just as president of 560, but also——

Mr. GRECO. No. The salaries are pyramided through his different positions. He is paid at the local level, the joint council level and the international level. He may be drawing a salary from the Eastern Conference now; I do not know. But I do know that he is drawing from different levels.

Senator NICKLES. If the racketeering bill were enacted today, could you tell us how it would affect 560?

Mr. GRECO. I wish it was done 10 years ago. It would not affect them right now because Tony is in jail and Nunzio has resigned from union activities. So, right now, I do not think it would have an effect on them at all.

But prior to this, through the last 6- or 7-year period, through the series of convictions that took place with different members of the local, it would have had a very positive effect because it would make them disassociate with the local and that influence they had, because they spend maybe anywhere from 1 year to 3 years; I do not know exactly what it is.

You had the Andrettas, you had the Brigoglios, you had Nunzio, and I think this is the fourth conviction for Anthony that he is serving now. There would have been that separation and a chance for the membership to do something and force them, you know, to come forward and do something of a positive nature in the executive board as leaders to take the rank and file and say, look, here is what happened here; let us do something. These people prostituted the contracts; they put people out of work. We lost money in the pension and welfare plans, and let us go back and recover these moneys.

All the time they are in union office enjoying these salaries, they are also accumulating pension credits toward the numerous pensions they are going to get when they retire. My president took a disability retirement and in the 2 years he was exhausting his appeals, he was accumulating credits in three different pension plans and driving around in one of our Lincolns with a union credit card,

and drawing moneys from the very benefit plans that he conspired to rip off for his medical expenses.

Senator NICKLES. You said your president. Who were you talking about?

Mr. GRECO. President Uzzolino of Local 478.

Senator NICKLES. 478?

Mr. GRECO. Yes.

Senator NICKLES. You mentioned that members do not have the right to elect the union's highest officials. Could you explain that a little bit further?

Mr. GRECO. No. 1, we cannot vote for the president, which in this case was Roy Williams. I know myself and a lot of other people who would have never voted for anybody that has been indicted and had the criminal associations that he has had through the years.

They would certainly not put him in charge of a union to do what has to be done to run a union—the contracts, the relationship with Central States pension, the $4 billion that is involved there, and things of that nature. They would not vote for anybody like that.

Also, at the joint council level, we provide the moneys through our dues to finance the joint council. But we, as members, are not members of the joint council. The officers of the locals are members of the joint council, and they in turn, elect the officers of the joint council. We do not elect these officers.

Senator NICKLES. Is there any direct effect or immediate impact on your local 478 if this bill were passed?

Mr. GRECO. No, because our president reported to Federal prison in Lexington on December 14. But it would have if it was a couple of years ago; it would have prevented this, because part of the testimony—as you see, he received a gift of $8,000, the Lincoln, the welfare coverage, et cetera.

We also lost $108,000 out of the fund to finance part of the attorneys' fees for himself and his son. His son is now the president; he was appointed through the executive board. But he was indicted.

Senator NICKLES. His son was?

Mr. GRECO. Yes. In fact, Joseph A. Uzzolino is now the president. He was the one who chaired the meeting in 1982 where they cursed me out and screamed bloody murder, in violation of probably LMRDA, bylaws, Roberts' Rules, human dignity, and everything else you could mention.

Senator NICKLES. Mr. Fox, you indicated that you founded PROD?

Mr. FOX. Yes.

Senator NICKLES. In 1972?

Mr. FOX. Correct.

Senator NICKLES. Could you give us a little background? Is that still an active group today?

Mr. FOX. Yes. PROD is today merged into, and is part of, TDU. The surviving name was TDU, but the two organizations are basically one and the same today.

Senator NICKLES. Landrum-Griffin requires every labor organization to adopt a constitution and bylaws. You stated that union

members are not guaranteed the right to vote on them. Could you explain how they are adopted?

Mr. Fox. Most constitutions and bylaws are, in fact—well, let us start at the local level. Under the Landrum-Griffin Act all local union officers must be elected by the membership in good standing. It is not true that intermediate or national union officers must be elected by the members. Rather, they can be elected by delegates at conventions.

Now, the same pattern usually works for the adoption of constitutions and bylaws. At the local level, it is the members who vote, although it is the union officers who write.

Frequently, the members are told that they must vote in favor of these 60 pages of legaleze because they are told by their lawyers that it is necessary to do this in order to be in compliance with the law.

This is something that the rank and file can hardly question. They have no independent counsel and no independent means of critiquing these amendments. Indeed, they are not even usually provided with the language of the amendments until minutes before they are asked to vote on a huge, lengthy legal document that they cannot begin to comprehend in such a short period of time.

Similarly, at joint councils, districts, conferences, and ultimately at national or international union levels, it is the delegates who are presented, minutes before they are asked to ratify these complex legal instruments, copies of the language they are being asked to ratify. They, once again, have not the benefit of legal counsel or the opportunity of advance notice.

For example, if unions were even required to give advance notice of the language to members before they were asked to vote, the members could theoretically, perhaps, take it to a lawyer and ask the lawyer to analyze it for them. Typically, they are not given that opportunity however.

But, once again, above the local union level, it is not the rank and file that votes, but rather the delegates. In the Teamsters Union, delegates are always the local union officers, so there is a wonderful little symbiotic relationship going here where the local union officers vote for the governing instrument which will establish their own rights and duties vis-a-vis the members.

The national union then drafts the language for the local bylaws and then the local officers can go to the members and say, "This is what we are told by the national lawyers we must do."

Senator NICKLES. One of the effects, if this bill was passed, is that Roy Williams would not be the president of the Teamsters. There have been some reports on who would be his replacement. Do you feel like his replacement would have a similar cloud over him?

Mr. GRECO. May I speculate a little bit?

Senator NICKLES. Yes.

Mr. GRECO. If the Fratiano book is correct—and he said that the Teamsters are controlled by organized crime and he called the shot on Roy Williams being connected—there are two possibilities: Jackie Presser and his organized crime connections in Cleveland,

and Roy Williams with his organized crime connections in Chicago, St. Louis, and Kansas City.

That is big juice; Roy Williams will get it. If that statement has substance, and up until now it has, I would say it could be a repeat of the same thing. It would be a disgrace for them to pick somebody out that is controlled, and I think it is time they started making a move in a different direction; if this union is to survive, they had better reform it.

You have had Hoffa convicted, you have had Beck convicted, and you have had Williams convicted. Fitzsimmons' son pleaded guilty, and nobody has ever done anything within the union in any way, shape or form, so how can you have faith in that system? It scares the living hell out of me, and I do not mind saying so. As an individual, I do not have any faith in anybody they would appoint.

Mr. Fox. Senator Nickles, the saying goes that power corrupts; absolute power corrupts absolutely. The fact is, in the Teamsters Union at least, as in some other unions, the national union officers possess absolute power because of these constitutions and bylaws that they write for their own benefit and protection, not for the benefit and protection of the rank and file.

Senator NICKLES. Mr. Fox, I appreciate your comments and specifics on how we could tighten the legislation. Despite that, I still was assuming that you would support the legislation as it is now; you are just making some suggestions on how it might be improved upon. Is that correct?

Mr. Fox. We find it minimally adequate.

Senator NICKLES. Well, I understand, and I appreciate your suggestions on how we might be able to improve upon it. I also think I could tell from the thrust of the comments that were made by the three of you that you felt like this was a step in the right direction, but only a step, and that some modifications need to be made in Landrum-Griffin to really insure that the democratic process does work in elections for union officials. Is that correct?

Mr. BLISS. Yes.

Mr. Fox. Yes, sir.

Mr. GRECO. Yes.

Senator NICKLES. OK.

Mr. GRECO. Before closing, I would like to give you a little story. I tried to go to the international convention at my own expense. For 2 or 3 months, I tried to get a pass from my local and they told me, "We will get it, we will get it, we will get it," but they did not seem to be able to get it.

Before I left New Jersey to go to Las Vegas, I called Las Vegas and the secretary of Salvatore Provenzano said, "Oh, that is all right; you just come out and we will give you a pass." When I got there, I tried to get in and I could not.

Twice a day for the 3 following days, I had Jerry Bliss and a number of officers who were able to get their wives and friends in, trying to get me a pass. They would not let me in, on the premise that I did not have a paid-up dues receipt.

I am on check-off; check-off means that the company automatically deducts and forwards to the union your dues money. If you go on vacation, the company does not take it out and it is up to you to send it to the local. I had been on vacation in April. I had the

check in my pocket. I could not make contact with anybody to give them the money, including my own local officials, so that I would be qualified to go into that Teamsters convention, despite the fact that I helped to pay for that convention with my dues and everybody else's.

Yet, we had convicted labor officials in there. We had guests and we had trucking company executives there, but I was not able to go in because I was some sort of a menace, I assume.

This is the democratic process that they are trying to protect. They will spend our resources to protect themselves from their own members instead of getting the criminal element out of this local.

Mr. Fox. Allen Dorfman was a distinguished visitor at the convention, while the rank and file were not permitted admittance to the convention.

Mr. GRECO. And the delegation from 560 was there, also.

Senator NICKLES. What are your dues a month?

Mr. GRECO. My dues at the present time are $24 a month. They vary.

Mr. BLISS. Mine are $23.

Mr. FOX. Did you vote on your dues?

Mr. GRECO. No.

Mr. BLISS. I voted on the dues, but that is set at the international convention; the increases are set at the international convention, so it is preordained. I did vote on the dues as an officer of a local at the convention.

Senator NICKLES. Well, gentlemen, we appreciate your statements before this committee, and also your very frank responses to my questions. I do believe that Senator Hatch has additional questions he would like to submit to you, so we would appreciate your response to those as soon as possible. We will keep the record open until we receive responses to those questions for some period of time.

[Additional material supplied for the record follows:]

MAR 24 1983

Honorable William B. Roth, Jr.
Chairman, Senate Committee on
Governmental Affairs
Permanent Subcommittee on Investigations
Washington, D.C. 20510

Dear Senator Roth:

In the hearing "Profile on Organized Crime: Mid-Atlantic Region", held before your Subcommittee on February 24, 1983, Senator Sam Nunn requested a listing of convicted union and company officials who would be disqualified from holding a union or labor relations position if the Labor-Management Racketeering Act, S336, was effective. Senator Nunn also requested a listing of those International Longshoremen's Association (ILA) officials who were convicted as a result of the Federal Bureau of Investigation's UNIRAC investigation and who remain in office following conviction.

Please find enclosed a listing of those individuals convicted as a result of investigations of this office remaining in a disqualified (per S336) union, employee benefit plan or labor relations position while their conviction is appealed.

We have contacted the U.S. Department of Justice relative to Senator Nunn's request concerning the FBI's UNIRAC investigation. It is our understanding that the Department of Justice is compiling a list of convicted individuals who would be barred from holding union or benefit plan positions but for their pending appeals for the United States Senate Committee on Labor and Human Resources, Subcommittee on Labor in support of S336. According to Department of Justice officials, the list will include those ILA officials convicted as a result of the UNIRAC investigation who remained in office following conviction.

We will be pleased to furnish you with a copy of the information you requested concerning the ILA officials upon receipt from the Department of Justice.

CONCURRENCES								
Initials								
Date	3/24							
Last Name	EDER	MAGEE						
Office Symbol	OOCR							

OFFICIAL FILE COPY Return to: Bldg. DL 1-441, Rev. July 1978

If you have any other questions or require additional information, please contact me.

Sincerely,

ROBERT E. MAGEE
Acting Inspector General

Attachment

cc: Honorable Senator Sam Nunn
Honorable Senator Don Nickles
Deputy Assistant Attorney General John C. Keeney
AIG reading file
OOCR reading file
5390
OOCR:EDER:eby 3/21/83

CONVICTED INDIVIDUALS REMAINING IN A DISQUALIFIED UNION, EMPLOYEE BENEFIT PLAN OR LABOR RELATIONS POSITION UNDER S336

Name	Position	Date of Conviction	Violations	Length in Office Following Conviction	Disposition of Case
Joseph Campisano	President, Teamsters LU 945 West Patterson, NJ	5/79	RICO, Kickbacks Employee Benefit Plan	22 months	Vacated position 3/2/81 when Supreme Court denied certiorari
Vito Cariello	Secretary/Treasurer LU 945	5/79	"	"	"
Ernest Palmeri	Business Agent LU 945	5/79	"	"	"
Frank Smith	Business Agent LU 945	5/79	"	"	"
Flen Chestnut	Business Agent LU 945	5/79	"	16 months	9/80, Circuit Court of Appeals overturned the conviction
Roby G. Smith	Business Agent, Teamsters LU 299 Detroit, Michigan	8/79	Hobbs Act, Extortion	43 months	Smith was removed from his position but was immediately rehired as an Organizer for Teamster Joint Council 43 and continues in that position while his conviction is under appeal.

Name	Position	Date of Conviction	Violations	Length in Office Following Conviction	Disposition of Case
William Soltero, Sr.	Secretary/Treasurer and Business Manager Laborers LU 383 Phoenix, Arizona	10/79	Embezzlement of Union Funds	26 Months	Vacated position in 12/81 after Supreme Court denied certiorari
John Gibson	International Secretary/Treasurer Hotel, Restaurant & Bartenders Employee Union, Cincinnati, Ohio	5/80	Embezzlement of Union Funds	24 months	Vacated position in 5/82 after Circuit Court of Appeals upheld conviction on 4/20/82
Raymond J. Silva	President, Inter-Longshoremen's Association, LU 1329 and Pres. LU 1996 Providence, RI	6/80	Embezzlement of Union Funds and Taft Hartley	11 months	Circuit Court of Appeals Upheld conviction on 3/20/81 on 5/5/81 Silva vacated position & on 5/6/81 he was incarcerated
Joseph P. Uzzolino	President, Teamsters LU 478 and Chairman of the Local 478 Pension and Welfare Fund, Union, NJ	6/80	Kickbacks-Employee Benefit Plan	27 months	Uzzolino vacated his positions after the Supreme Court denied Certiorari on his appeal on 10/5/82
Anthony Lamaina	Business Manager Law Enforcement and Security Officers LU 40B, Atlantic City, NJ	12/81	Embezzlement of Union Funds	15 months	Lamaina remains in office while his conviction is under appeal.

Name	Position	Date of Conviction	Violations	Length in Office Following Conviction	Disposition of Case
James Conover	Secretary/Treasurer Law Enforcement and Security Officers LU 40B, Atlantic City, NJ	12/81	Embezzlement of Union Funds	15 months	Conover remains in office while his conviction is under appeal
John Giardiello	President and Business Agent, Laborers LU 767, West Palm Beach, Florida	6/82	RICO, Conspiracy-Kickbacks-Employee Benefit Plan	9 months	Removed from positions under RICO but re-appointed to position of Organizer LU 767
Salvatore Tricario	Business Agent and Recording Secretary Laborers LU 767 West Palm Beach, Florida	6/82	RICO, Conspiracy-Kickbacks-Employee Benefit Plan	9 months	Removed from positions under RICO but re-appointed to position of Organizer LU 767
Sten Thordarson	Secretary/Treasurer Teamster LU 389 Conoga Park, CA	8/82	RICO, Embezzlement Union Funds	7 months	Thordarson remains in office pending appeals
Martin Fry	Secretary/Treasurer Teamsters LU 186 Carpinteria, CA	8/82	RICO, Embezzlement	7 months	Fry remains in office pending appeals
John Cody	President, Teamsters Local 282 New York, New York	10/82	RICO, Taft-Hartley (Bribery)	5 months	Cody remains in office while his conviction is under appeal

Name	Position	Date of Conviction	Violations	Length in Office Following Conviction	Disposition of Case
Pascal DiJames	International President Tile, Marble and Terrazzo International Union, Washington, DC	11/82	Willful failure to file reports required under the LMRDA	4 months	DiJames remains in his position while the conviction is under appeal
Eugene Boffa	Chief Executive Officer Universal Coordinators, Inc./Country Wide Personnel, Inc. (Labor Leasing), New Jersey	6/81	RICO, Taft-Hartley, Obstruction, Mail Fraud	21 months	Boffa remains in office while conviction is on appeal to Supreme Court
Louis Kalmar	Corporate Officer Universal Coordinators, Inc./Country Wide Personnel, Inc. (Labor Leasing) New Jersey	6/81	RICO, Taft-Hartley, Mail Fraud	21 months	Kalmar remains in office while conviction is on appeal to Supreme Court

*Many of the union officials are/were also trustees of the union's affiliated employee benefit plan

RAM:JEP:CHC:djw
S. 336

U. S. Department of Justice
Office of Legislative Affairs

CARY

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 23 1983

Honorable Orrin G. Hatch
Chairman
Committee on Labor and
Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is a response to your letter dated March 17, 1983, and the enclosed three (3) questions concerning S.336, entitled the Labor Management Racketeering Act of 1983.

In regard to your question concerning the presence of organized crime and other criminal elements in the labor movement, the Department of Justice has no way of exhaustively measuring all criminal activity which may affect labor-management relations or the internal operations of labor unions and employee benefit plans affiliated with labor unions. No criminal case-tracking system in the Department of Justice is currently classified according to the job description of criminal defendants.

Nevertheless, we think that labor racketeering is a significant part of organized criminal activity. We expect in the near future to provide both your committee and the Senate Labor Subcommittee with a list of labor racketeering prosecutions and convictions. The list is being compiled from a survey of significant labor racketeering investigations by the FBI which resulted in the prosecution of persons affiliated with labor unions and employee pension or welfare plans since January 1981. As of this time, a partial review of the survey data reflects that such labor racketeering prosecutions involved seventy-six (76) local unions or employee benefit plans which were affiliated with twenty-eight (28) different national and international labor organizations.

cc: DAG, Criminal, FBI

We have enclosed a copy of a list of significant labor prosecutions which was compiled and furnished to your committee in March 1981. Although the latter list reflects the appellate status of certain cases at that time, each of the named defendants for whom a pending appeal was listed in March 1981 has either had his conviction upheld on appeals taken as of this time or been reconvicted of the charges following reversal in the appellate courts. Again, although both lists reflect significant prosecutions, we do not claim the lists to be exhaustive measurements of the problem.

With respect to your question as to whether S.336 could result in the disqualification for ten (10) years of an individual who "inadvertently violates one of the reporting requirements" under the Labor Management Reporting and Disclosure Act, hereafter "LMRDA," no prohibition of service in union office can result from an "inadvertent" violation of such reporting requirements under either current law or as the result of any proposed amendment of Section 504 contained in S.336. Section 504 currently prohibits, and will continue to prohibit after enactment of S.336, service by those persons who are "convicted" and under the disability of "conviction" of crimes listed in Section 504 or of equivalent crimes to those so listed. LMRDA reporting crimes are listed in Section 504 as "a violation of title II or III of this Act" ("a violation of subchapter III or IV of this chapter" in 29 U.S.C. 504).

It is well established that no conviction of the reporting misdemeanors in title II of the LMRDA (29 U.S.C. 439) can be sustained on the basis of inadvertence, accident or mistake in cases involving the willful failure to maintain required records or to file required reports (29 U.S.C. 439(a)), the knowing falsification of or failure to disclose material facts in required reports (29 U.S.C. 439(b)), or the willful falsification, concealment or destruction of required records (29 U.S.C. 439(c)). See, e.g., United States v. Ottley, 509 F.2d 667, 672-674 (2d Cir. 1975) (29 U.S.C. 439(a)); United States v. Bath, 504 F.2d 456, 460 (10th Cir. 1974) (29 U.S.C. 439(b)); United States v. Budzanoski, 462 F.2d 443, 452 (3d Cir. 1972) (29 U.S.C. 439(c)). By analogy, the same standard of proof applies to the reporting misdemeanors which relate to union trusteeships under title III of LMRDA (29 U.S.C. 461) and the willful failure to file required reports and maintain required records pertaining to labor organizations under trusteeship (29 U.S.C. 461(c)), the knowing falsification of or failure to disclose material facts in trusteeship reports (29 U.S.C. 461(d)), and the willful concealment or destruction of required records on which trusteeship reports are based (29 U.S.C. 461(d)). The trusteeship reporting provisions of LMRDA expressly incorporate the record keeping provisions of LMRDA title II and

reflect the same kinds of penalties and mental states of culpability with respect to individuals. See 29 U.S.C. 439(d), 461(b) and 461(e).

In regard to your final question and the proposition that the local union official who may not be well versed in the law or suitably financed to retain full-time counsel is likely to be a victim of S.336, we do not believe that such fear is well founded or that it is a valid reason for opposing S.336. Conviction of prohibited service in labor union positions requires proof of a "willful" violation of Section 504(a). See 29 U.S.C. 504(b). Section 4, paragraph (b) of the bill as it is currently drafted makes no change in this requirement. A "willful" violation, especially when used in connection with crimes punished as felonies, ordinarily connotes a voluntary, intentional violation of a known legal duty. See, e.g., United States v. Pomponio, 429 U.S. 10 (1976). S.336 will elevate a violation of Section 504 from a misdemeanor to a felony.

Furthermore, guidelines and enforcement procedures currently used by the Department of Justice with respect to Section 504 require United States Attorneys' offices to consult with the Department's Criminal Division prior to the initiation of any judicial action under Section 504 by way of indictment, criminal information, or criminal complaint (i.e., criminal complaint in support of an arrest warrant or appearance summons). Because the underlying purpose of Section 504 is to eliminate undesirable persons from endangering the labor movement, long-standing procedures within the Criminal Division require that prior to initiation of prosecution under Section 504, the convicted individual and the chief executive officers of his local union and national or international union be aware of the convicted individual's disability with respect to the position he currently holds and that the convicted individual be given the opportunity to vacate the prohibited position. Unless such notice has been given by the sentencing court or the circumstances already indicate an open and flagrant disobedience of Section 504's requirements, prosecution is not initiated unless the individual refuses to comply with the statute following written notification from the Criminal Division as to the existence of a statutory disability. Because this procedure has resulted in a very satisfactory record of compliance and because of the heavier penalties which will be imposed by S.336, we fully contemplate that this procedure will continue following enactment of the bill.

I trust that the foregoing comments meet your concerns. Please contact me with any further questions you may have in this matter.

Sincerely,

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

Enclosures

1. Based upon the experience of your department, how widespread do you feel is the presence of organized crime and other criminal elements in the union movement?

2. As it is currently drafted, do you feel that S. 336 could result in an individual who inadvertently violates one of the reporting requirements under LMRDA being barred from union office for a period of ten years?

3. Opponents of the bill allege that the local union official who may not be well versed in the law or suitably financed to retain counsel on a full time basis is the most likely victim of S. 336. Do you feel that this is an accurate assessment?

SIGNIFICANT LABOR CONVICTIONS

(1978 - 1980)

Laborers International Union of North America

1) United States v. William Feeney, et al., D.N.J.

On April 2, 1980, Feeney, President of Laborers Local 734, Clifton, New Jersey, and a trustee of the local union's pension and welfare plan, was convicted of conspiracy and the unlawful receipt of $62,500 in kickbacks for arranging mortgage loans totalling $625,000 from an employee benefit plan. Feeney was also formerly a dominant force in Teamsters Local 11, Clifton, New Jersey. The transactions resulted in the plan's holding of essentially worthless properties in Hudson County, New Jersey. Feeney was sentenced to seven years' imprisonment. The case is currently on appeal.

Investigative Agency: Labor, O.I.G.

Prosecuting Office: Newark Strike Force

2) United States v. Joseph Hauser, et al., D. Ariz.

On February 25, 1980, Bernard Rubin, former President of the Southeast Florida Laborers District Council and a trustee of affiliated pension and welfare plans, was sentenced to ten years' imprisonment following his guilty plea to racketeering in connection with a nationwide scheme to convert approximately $5.5 million from various Laborers and Teamsters employee benefit plan funds which were allocated for the payment of member claims. The Southeast Florida Laborers District Counsel Pension Fund lost $705,000. The ten year sentence was imposed concurrently with Rubin's five year sentence arising from his 1975 conviction in the Southern District of Florida for 101 counts of racketeering, embezzlement, income tax evasion and failure to keep union records. This case was the subject of hearings held by the Senate Permanent Subcommittee on Investigations and its report on the "Labor Union Insurance Acticities of Joseph Hauser and His Associates," S.Rep. No. 96-426 (1979).

Investigative Agency: FBI

Prosecuting Office: Los Angeles Strike Force

3) United States v. William Soltero, et al., D. Ariz.

On December 19, 1979, Soltero, Secretary Treasurer and Business Manager of Laborers Local 383, Phoenix, Arizona, was sentenced to four years' probation and a $5,000 fine following his conviction for embezzlement of union funds. Soltero, an influential labor leader in the Southwestern United States, was convicted in connection with the padding of expense vouchers, unauthorized travel, and the use of union funds in connection with a civil lawsuit filed against Soltero and others arising from an assault and personal altercation. The case is currently pending appeal. Prior to trial, William Soltero, Jr., former Vice President of Local 383, pleaded guilty to conspiracy and one count of embezzlement.

Investigative Agency: FBI

Prosecuting Office: United States Attorney's Office, Phoenix, and Los Angeles Strike Force

4) United States v. Albert Inorio, D. Conn.

On November 20, 1979, Inorio, Business Manager of Laborers Local 455, was sentenced to three years' imprisonment and five years' probation following his conviction for embezzlement of union funds in connection with kickbacks from the sponsor of a local union social affair. A co-defendant, Salvatore Annunziata, disappeared prior to trial and is believed to have been murdered.

Investigative Agency: FBI

Prosecuting Office: Boston Strike Force

5) United States v. Manuel Renteria, C.D. Cal.

On December 20, 1980, the Ninth Circuit Court of Appeals affirmed the 1979 conviction of Renteria, former Business Manager of Laborers Local 300, Los Angeles, for conspiracy, mail fraud and the receipt of unlawful payments concerning an employee welfare benefit plan. Local 300 was the largest Laborers local in the country, with 12,000 members and a large Hispanic constituency. The case involved the sale of $400,000 in life insurance, computer services and legal services to Local 300 and its members without disclosing Renteria's profits from those programs. Renteria was also convicted for receiving a $10,000 kickback from an optometrist in exchange for referral of Local 300 members to the optometrist's practice under the Laborers' Health and Welfare Plan of Southern California. Renteria's effective sentence is three years' imprisonment and a $5,000 fine. Petition for rehearing was denied on March 11, 1981.

Investigative Agency: FBI

Prosecuting Office: United States Attorney's Office, Los Angeles

6) United States v. George Wuagneux, S.D. Fla.

On September 22, 1980, Wuagneux, a Tampa construction worker and officer of Sage Corporation, Hallendale, Florida, was sentenced to ten years' imprisonment following his conviction for racketeering, embezzlement from a union benefit plan, mail fraud, bank fraud, and income tax violations in connection with a scheme to obtain large loans from financial institutions and labor union pension funds for purported construction projects of Sage Corporation. As part of the sentence, Wuagneux was ordered to make restitution of $191,654 to the Southeast Florida Laborers District Council Pension Fund for losses resulting from a fraudulent loan application to that benefit plan. The case is currently pending appeal.

Investigative Agencies: FBI, IRS, Labor O.I.G.

Prosecuting Office: Miami Strike Force

7) State v. Chester Liberatore, Cuyahoga County, Ohio

On December 5, 1979, Chester Liberatore, Business Manager of Laborers Local 310, was sentenced to serve six months to five years in prison following his state conviction for arson in connection with a campaign to intimidate non-union contractors. Liberatore is the brother of Anthony Liberatore who was recently convicted by the Cleveland Strike Force for bribery of an United States Government employee and who faces retrial on state murder charges in connection with the death of Cleveland racketeer Danny Greene.

Prosecuting Office: Cuyahoga County State Prosecutor's Office

8) State v. Raymond Flynn, St. Louis County, Missouri

On April 3, 1979, Flynn, Secretary-Treasurer, Laborers Local 42, St. Louis, pleaded guilty to state charges of burglary and possession of burglary tools. Imposition of sentence was suspended by the state court and Flynn was placed on five years' probation.

Prosecuting Office: State Prosecutor for St. Louis County, St. Louis, Missouri

INTERNATIONAL BROTHERHOOD OF TEAMSTERS (IBT)

1)- United States v. Anthony Provenzano, et al., D.N.J.

New Jersey - Provenzano Group

On July 10, 1979, Anthony Provenzano, one of the most powerful labor figures in New Jersey, and three associates were sentenced to lengthy prison terms for their involvement in a labor racketeering scheme. Provenzano received a 20-year sentence and a $20,000 fine, as did Thomas Andretta; Stephen Andretta was sentenced to 10 years' imprisonment and received a $15,000 fine, and Gabriel Briguglio received a seven-year sentence and a $10,000 fine.

Provenzano and his associates long controlled Union City Teamsters Local 560, the largest Teamster local in the country with more than 8,000 members. Provenzano, who has spent many years holding office at Local 560, has attempted to retain control even when legally precluded from official position. The racketeering in this case was uncovered by an investigation initiated by the 1975 disappearance of Jimmy Hoffa.

The evidence introduced at the three-week trial established that the Provenzano group had from 1969 to 1976 received payments from Seatrain Lines, Inc., the steamship company, in return for labor peace. Seatrian was served by a "house" trucking firm, Interocean Services, which in turn controlled a wholly owned subsidiary, Switching, Inc. When Interocean went out of business, Di-Jub Leasing Corp. was formed by the defendants as a house trucker for Seatrain. Interocean operated with no Teamster contract, and Switching was able to operate in blatant disregard of its union contract. Labor expenses of the companies were thereby substantially lessened. These arrangements were made possible through the Provenzano group's official and de facto control over Local 560. The payoff money for these services was generated by having trucking companies owned and operated by the conspirators bill Interocean and Di-Jub for work not performed. The bills were in turn passed on to Seatrain as claims for services by Interocean and Di-Jub. An audit by Seatrain in 1973 revealed the fraudulent billing, but the company made no effort to stop the practice.

Because of the lack of records, the number of financial transactions, and the frequent payments in cash, the total amount of the payoffs is not known. It has been estimated, however, that Seatrain may have paid a million dollars for "no show" drivers over six or seven years. The size of this figure highlights an interesting aspect of the case. Regardless of the exact amount paid by Seatrain, it was less than what it would have cost the company for drivers under a legitimate union contract. This explains why, although Federal investigators initially approached the case viewing Seatrain as a victim, the company continually refused to acknowledge such a status or to cooperate. In effect, then, the true victims in the case were the truck drivers performing work below union scale. And it is they who have previously lacked redress because of Provenzano's dominance of the union.

Investigative Agency: FBI
Prosecuting Office: Newark Strike Force

2) United States v. William Dykstra, N.D. Cal.

On July 18, 1979, Dykstra, Vice President of IBT Local 856, San Francisco, was convicted of seven counts of the Hobbs Act for extorting business in San Francisco's produce markets. Dykstra used Teamster "lumpers" or unloading personnel to maintain a stranglehold on produce businesses. Dykstra's conviction and sentenced to ten years' imprisonment are believed to have substantially diminished lumper violence at San Francisco trucking terminals. The case received widespread publicity. The problem of lumpers was the subject of hearings held by the House Committee on Small Business, H.R. 95-1788, 2d Sess. (1978).

Investigative Agency: FBI
Prosecuting Office: U.S. Attorney, San Francisco

3) United States v. David Friedland, et al., D. N.J.

On April 11, 1980, former New Jersey State Senator David Friedland and his father, Jacob Friedland, another long-time New Jersey politician, were convicted of accepting some $360,000 in kickbacks for arranging two separate loans, totalling approximately $4 million from the benefit fund of Teamsters Local 701. On June 5, 1980, David Friedland was sentenced to seven years' imprisonment and a $35,000 fine, and 79-year-old Jacob Friedland was sentenced to two years' imprisonment and a $35,000 fine. The Friedlands are practicing attorneys who currently represent 13 of the 35 union locals within Teamsters Joint Council 73, which has been dominated by convicted racketeer Anthony Provenzano.

In June 1979, convicted securities swindler Barry Marlin agreed to cooperate with United States Postal Inspectors. Marlin revealed that he had made the kickbacks to the Friedlands. In view of the fact that Marlin was a convicted swindler and an admitted perjurer, it was necessary to conduct an extensive investigation to corroborate each and every aspect of the conspiracy as he described it. FBI, Department of Labor, and Internal Revenue Service agents were able to identify, locate, and gain the cooperation of witnesses who explained that Marlin had raised the money for the first kickback through the manipulation of several different bank accounts and then made the actual payment to David Friedland at Freeport in the Bahamas. The agents were also able to locate a former business associate of Marlin's who had actually witnessed Marlin make the second kickback to David Friedland.

The Government also obtained the cooperation of Marlin's ex-wife, who corroborated significant portions of Marlin's testimony about his meetings with the Friedlands and his delivery of the kickback money. She also revealed that David Friedland had admitted to her that he had received one of the kickbacks, and that the Friedlands had tried to persuade her to make false statements to obstruct the investigation. Credit card receipts establishing Friedland's presence in Freeport at the time of the kickback, telephone toll records reflecting calls between the Friedlands and Marlin's wife on the pertinent dates of the obstruction attempt, and extensive Swiss bank records were also used to provide corroboration. The case is currently on appeal.

Investigative Agencies: FBI, IRS, Labor OIG
Prosecuting Office: Newark Strike Force

4) United States v. Ernest Palmeri, et al., D. N.J.

On February 19, 1980, New Jersey union official Ernest Palmeri was sentenced to seven years' imprisonment for racketeering and arranging kickbacks from his union's benefit fund. Palmeri and four other defendants who received lesser sentences were all officers of Teamsters Local 945, which has long controlled the solid waste industry throughout much of New Jersey. This prosecution, part of the Newark Strike Force's Banking Industry Project, focused on the exploitation of New Jersey banks by organized crime elements in the solid waste industry.

The cooperation of three defendants convicted in earlier New Jersey bank cases made this prosecution possible. They revealed a simple and invidious technique by which organized crime had been able to penetrate the banking industry. A racketeer in control of a union would deposit the union's benefit plan assets in a small bank, normally in the form of certificates of deposit. Sometimes the deposits, which could be in the millions of dollars, were made at less than the prevailing interest rate--to the detriment of the ultimate beneficiaries, but to the very considerable benefit of the bank. Once the bank had begun to rely upon such deposits and had made conventional loans based upon the new assets, the bank would be at the mercy of the racketeer because he could withdraw the union funds at will. At that point the racketeer would demand that the bank grant unsecured loans to the racketeer's nominees, and the bank would have to comply. The racketeer would then invest the loan money in various ostensibly legitimate businesses (particularly in the solid waste industry) and thereby undercut the prices of legitimate competitors and force them out of business. In one case such loans were used to finance a massive loansharking operation conducted by an associate of the labor racketeer. Most of such loans would go into default, sometimes putting severe financial strain on the bank. The Federal Deposit Insurance Company has had to close several banks that were victims of this scheme.

Ernest Palmeri had carefully insulated himself over the years to avoid implication in such a scheme. Nevertheless, a 1978 grand jury investigation assisted by the FBI was able to break through the layers of insulation. Evidence was developed which proved that Palmeri and his associates had systematically invested

over a million dollars of their union's benefit plan assets with eight banks in order to obtain some $800,000 in unsecured loans, most of which later went into default.

The Palmeri trial was complicated and delayed by extensive publicity on Palmeri's racketeering activities. A mistrial was declared, and the three-week retrial eventually took place before a sequestered jury. All five defendants were convicted on all counts on May 4, 1979. The Supreme Court upheld the conviction of Palmeri and three other co-defendants in March 1981.

Investigative Agency: FBI
Prosecuting Office: Newark Strike Force

5) United States v. George Snyder, E.D.N.Y.

On May 22, 1980, George Snyder, the former secretary-treasurer of Long Island Teamster Local 806, was convicted of embezzling over $1 million from the Local 806 Pension and Welfare Funds. The evidence at trial established that, in addition to his authorized annual salaries from the Union and as chairman of the trustees of the two Local 806 benefit funds, Snyder directed the Local 806 office manager to write him "advance" salary checks totalling $1.2 million from the benefit fund during the years 1975 and 1976. Most of the case was used to buy and maintain a 40-foot fishing yacht.

Evidence was also introduced at trial showing that Snyder and the other trustees improperly used $300,000 in Welfare Fund assets to pay off a bank loan made to the union, and that they used $400,000 in Pension Fund money to pay for lavish renovations of Local 806 headquarters--including a personal sauna bath and exercise room for Snyder.

Snyder was sentenced to five years' imprisonment and a $10,000 fine. The case is currently on appeal.

Investigative Agency: FBI
Prosecuting Office: Brooklyn Strike Force

6) United States v. Anthony DiLapi, et al., E.D.N.Y.

DiLapi, business agent for IBT Local 522 and Benjamin Ladmer, Secretary-Treasurer of Local 300, International Production Sales and Service Employees Union, both received 10-year prison sentences during 1980 following their convictions for conspiracy and obstruction of justice in connection with an effort to prevent the unionization of a garment center trucking company. The case involved an attempt to dissuade a rival independent union to withdraw a recognitional action before the NLRB. The case is currently on appeal.

Investigative Agency: FBI
Prosecuting Office: Brooklyn Strike Force

7) United States v. Rudy Tham, N.D. Cal.

On May 21, 1980, San Francisco Teamster official Michael Rudy Tham was sentenced to six months' imprisonment, four years' probation, and a $50,000 fine for embezzlement of union funds and making false entries in union records. Tham is the secretary-treasurer and chief executive officer of the 7,000-member Teamsters Local 856, the largest of 44 Teamster locals in the San Francisco Bay area. Tham is also vice-president of Teamsters Joint Council 7 and since 1979 has been a general organizer for the International. Tham is generally considered to be among the top five Teamsters on the West Coast. The case is also significant because former organized crime figure Jimmy Fratianno testified at trial about organized criminal elements' control over the Teamsters Union. The case is currently pending appeal.

Investigative Agency: FBI
Prosecuting Office: San Francisco Strike Force

8) United States v. Alfred Pascarella, D. N.J.

On July 25, 1978, Pascarella, former President of IBT Local 418, Garfield, New Jersey, was sentenced to a three-year suspended sentence and $2,500 fine following a guilty plea to charges of tax fraud and the acceptance of $29,500 from employers for "sweetheart" arrangements. He also consented to a civil RICO injunction barring him foreverafter from Union office.

Investigative Agencies: Labor OIG, IRS
Prosecuting Office: Newark Strike Force

9) United States v. Richard Fitzsimmons, E.D. Mich.

On February 15, 1980, Richard Fitzsimmons, former vice-president of Detroit Teamster Local 299 and an organizer for the International Teamsters Union, was sentenced to two and a half years in prison and fined $10,000. Also entered was an order immediately forfeiting all of Fitzsimmons' offices, interests, and rights in the Teamsters Union, except for a retirement annuity from the Central States Pension Fund. Fitzsimmons will be barred from participation in union affairs for five years following completion of his sentence. Two employer-defendants were sentenced to nine months in jail and fines totalling $50,000 each. The sentences stemmed from guilty pleas to racketeering violations involving a series of kickbacks from trucking company employers.

Investigative Agency: FBI
Prosecuting Office: Detroit Strike Force

10) United States v. Seymour Gopman, S.D. Fla.

On April 7, 1978, Gopman, former attorney for several employee benefit plans of the Teamsters, Laborers, Operating Engineers, Lathers, and Ironworkers unions in southern Florida, pleaded guilty to charges of receiving a kickback of $990,000 for arranging a $500,000 loan from the Florida Teamsters Pension Fund, embezzlement of approximately $80,000 from various union

benefit plans by submitting multiple expense allowances, and by taking collections from delinquent employer contributions, and to omitting approximately $1 million in income from his 1972 tax return. Gopman was sentenced to serve four years' imprisonment and to pay fines of $15,000.

Investigative Agency: Labor OIG
Prosecuting Office: Miami Strike Force

11) United States v. John Felice, Jr., N.D. Ohio

Felice, former Secretary-Treasurer of IBT Local 293, was convicted in 1978 and sentenced to one year in prison for embezzlement of funds from the local union's Health and Welfare Fund.

Investigative Agency: FBI
Prosecuting Office: Cleveland Strike Force

12) United States v. Mary Faulds Shane, N.D. Ohio

Shane, former administrator of IBT Local 436 pension and health and welfare funds, was convicted in 1980 for embezzlement of $106,000 from the plans. The case is currently pending appeal.

Investigative Agency FBI
Prosecuting Office: Cleveland Strike Force

13) United States v. Charles L. O'Brien, E.D. Mich.

O'Brien is the celebrated "foster son" of Jimmy Hoffa. He was convicted in 1977-78 on two separate occasions. One conviction grew out of his receipt of a new Chevrolet during

contract negotiations with Ritter Chevrolet, Detroit, Michigan, while O'Brien was serving as a trustee and negotiator for Teamster Local 336 in Detroit. The other conviction was a bank fraud case in which O'Brien had puffed his salary and assets in order to receive a $30,000 loan from the National Bank of Southfield, Michigan.

Investigative Agency: FBI
Prosecuting Office: Detroit Strike Force

14) United States v. Meli, et al., E.D. Mich.

IBT Local 299 business agent Roby G. Smith was convicted in 1979 of Hobbs Act extortion with employers Vincent Meli, James Russo, and Joseph Cusmano to deprive the truck driver-employees of J & J Cartage Co., Detroit, Michigan, of their benefits under the health, welfare and pension plans. Smith turned a silent ear to the complaints of his union members as his role in the futherance of the conspiracy. The case is currently pending appeal.

Investigative Agency: Labor OIG
Prosecuting Office: Detroit Strike Force

15) United States v. Joseph Bane, Sr., E.D. Mich.
United States v. Joseph Bane, Jr., and Mitch Gentile, E.D. Mich.

These were companion Hobbs Act convictions in 1978-1979. The conviction of Joseph Bane, Sr., who was president of Teamsters Local 614, involved the shakedown of the owners of a pilot service in Pontiac, Michigan. The conviction of Joseph Bane, Jr., and Gentile involved a similar shakedown of a different company. Joseph Bane, Sr., was also convicted of embezzling union funds and mail fraud in 1977 in connection with the bogus union employment of William Hoffa, brother of former IBT General President James R. Hoffa.

Investigative Agency: FBI
Prosecuting Office: Detroit Strike Force

16) United States v. Edward Petroff, E.D. Mich.

Edward Petroff, Jr., (son of Edward Petroff, Sr., who testified before the Keffauver Committee in the late 1950's) was the president of Teamsters Local 336, Detroit, Michigan, servicing automobile dealerships. He was convicted in 1979 for receiving unlawful payments from an employer in return for guaranteeing labor peace.

Investigative Agency: FBI
Prosecuting Office: Detroit Strike Force

17) United States v. Jack Thompson

Thompson, a labor consultant in the Saginaw-Bay City, Michigan, tri-county area, recently (1981) pleaded guilty to having participated in a scheme to shake down small company employers for labor peace from Teamster local unions in that area. The case is currently pending sentence.

Investigative Agency: FBI
Prosecuting Office: Detroit Strike Force

18) State v. Donald Munroe, Providence, R. I., Superior Court

On November 26, 1980, Munroe, former vice president of Teamsters Local 251, East Providence, Rhode Island, was convicted of manslaughter following his plea of nolo contendere in connection with a personal altercation. He was sentenced to five years' imprisonment, four years suspended.

Prosecuting Office: Rhode Island State Attorney General's Office

UNIRAC Investigation

International Longshoremen's Association (ILA)

1) United States v. Barone, et al., S.D. Fla.

On September 1, 1979, nine major convictions resulting from the massive UNIRAC investigation were obtained after a seven-month trial, the longest ever in the Southern District of Florida. UNIRAC, since 1975 has probed organized crime infiltration of the waterfront industry in several Atlantic and Gulf Coast ports. The investigation uncovered the buying and selling of labor contracts and numerous instances of embezzlement of union funds by ILA officials. Threats, extortion and intimidation were found prevalent.

The major indictment resulting from UNIRAC, filed in Miami in June 1978, charged twenty-two ILA officials and corporate executives with racketeering, obstruction of justice, receiving kickbacks, extortion, and revuenue violations over a period from 1965 to 1977. Eight of these defendants pleaded guilty prior to trial, two were severed from the main trial, the court granted a motion for judgment of acquittal as to one defendant at the conclusion of the evidence, and a mistrial was declared as to one defendant when the jury could not reach a verdict. The September 1 verdict convicted nine of the remaining ten. Among those convicted were George Barone, ILA International Vice President and President of ILA Local 1922 in Miami, and Fred R. Field, Jr., the General Organizer of the ILA and its third highest official. The case is presently on appeal.

Investigative Agency: FBI

Prosecuting Office: Miami Strike Force

2) United States v. Anthony Scotto, et al., S.D.N.Y.

On November 15, 1979, Anthony Scotto, International Vice President of the ILA and Anthony Anastasio, former Vice President of ILA Local 1814, were convicted after trial for racketeering, racketeering conspiracy, tax offenses, and the unlawful receipt of payments from employers totalling in excess of $250,000. The effective sentence imposed on Scotto is five years' imprisonment, five years' probation, and $75,000 in fines. The effective sentence imposed on Anastasio is two years in prison, five years' probation, and a $5,000 fine. Defendants' petition for rehearing, following affirmance of these convictions on appeal, was denied by the Second Circuit Court of Appeals on March 6, 1981.

Investigative Agency: FBI, IRS

Prosecuting Office: United States Attorney's Office, S.D.N.Y.

3) United States v. Michael Clemente, et al., S.D.N.Y.

On May 2, 1980, after a 12-week trial before a sequestered jury, organized crime figures Michael Clemente and Tino Fiumara, along with Michael Copolla, Gerald Swanton, and three presidents of International Longshoremen's Association (ILA) locals in New York and New Jersey, Thomas Buzzanca, Vincent Colucci and Carol Gardner, were convicted on 158 counts of racketeering, racketeering conspiracy, extortion, income tax evasion, receiving unlawful labor payments in violation of the Taft-Hartley Act, and perjury. The indictment charged the defendants with running a racketeering enterprise which in large part controlled the Port of New York.

The indictment and convictions resulted from a two and a half year grand jury investigation and a major six-month undercover effort by a cooperating businessman. The defendants systematically extorted money from ILA employers and waterfront businesses in return for guarantees of labor peace and productivity. Work and contracts were also distributed to selected companies. The defendants were shown to have extorted more than $300,000 from various waterfront businesses and steamship lines over several years. Michael Clemente was also convicted of receiving more than $1,000,000 directly from the Netumar Steamship Line from 1973 to 1978, in return for providing economic benefits to the Line in the Port of New York. Clemente was also convicted of evading approximately $500,000 in taxes over five years.

The convictions were affirmed as to all defendants on February 26, 1981, by the Court of Appeals for the Second Circuit.

Investigative Agency: FBI, IRS

Prosecuting Office: United States Attorney's Office, S.D.N.Y.

4) United States v. Edward F. Dalton, D. Mass

On January 4, 1978, Dalton, ILA International Vice President, was convicted after a guilty plea to charges of conspiracy and embezzlement from an employee benefit plan.

Prosecuting Office: United States Attorney's Office, Boston, Massachusetts

5) United States v. George W. Dixon, S.D. Ala.

On January 25, 1979, Dixon, an ILA International Vice President, was convicted of embezzlement of union funds in connection with the multiple billing of travel expenses. His conviction was reversed following appeal.

Investigative Agency: FBI

Prosecuting Office: United States Attorney, Mobile, Alabama

6) United States v. Julio Mello, D. P.R.

On April 26, 1980, Mello, a trustee of the ILA Local 1575 Welfare Plan, was convicted following a guilty plea for embezzlement of $1 million from the plan.

Prosecuting Office: Miami Strike Force

HOTEL AND RESTAURANT EMPLOYEES UNION (HREU)

1) United States v. John Gibson, et al., S.D. Ohio

On August 22, 1980, Gibson, General Secretary-Treasurer of HREU, was sentenced to four months' imprisonment following his retrial and conviction for conspiracy and embezzlement of union funds. The case is currently pending appeal. Herbert Schiffman and James Stamos, HREU General Vice Presidents, were severed from the Gibson trial and charges against them were subsequently dismissed on motion of the Government.

Investigative Agencies: FBI, Department of Labor LMSA
Prosecuting Office: U.S. Attorney's Office, Cincinnati

2) United States v. Herbert Schiffman, N.D. Ga.

Schiffman, a General Vice President of HREU, was convicted in 1977 for receiving unlawful things of value from an Atlanta hotel employer in the form of reduced lodging costs over a ten-month period.

Investigative Agency: Labor OIG
Prosecuting Office: Miami Strike Force, Atlanta Field Office

3) United States v. Raymond Lane, N.D. Cal.

On January 12, 1979, Lane, former Secretary-Treasurer of the HREU Local 28, and trustee of four HREU benefit plans in Oakland, California, pleaded guilty to embezzlement of HREU benefit plan funds. He was subsequently sentenced to two years (six months' imprisonment and 18 months' probation).

Investigative Agency: FBI
Prosecuting Office: San Francisco Strike Force

4) United States v. Ben Schmoutey, et al., D. Nev.

On November 19, 1979, the indictment of Schmoutey, Secretary-Treasurer of HREU Local 226, Las Vegas, for racketeering, arson, bribery, and embezzlement of union funds was dismissed by the trial court. The case involved the fire-bombing of hotels and restaurants in Nevada and alleged bribery of a local public official in order to reduce state charges resulting from illegal union organizational efforts. Gramby B. Hanley, who is serving a life sentence for the murder of Elmer "Al" Bramlet, Schmoutey's predecessor in Local 226, recanted much of his grand jury testimony which had incriminated Schmoutey.

5) United States v. Ralph Natale, et al., E.D. Pa.
United States v. Ralph Natale, S.D. Fla.

On November 21, 1978, Natale, a former officer of HREU Local 170, was convicted in the Eastern District of Pennsylvania for racketeering, mail fraud, travel in aid of racketeering, and conspiracy in connection with a scheme to conduct arson for profit. He was sentenced to 12 years' imprisonment. Natale was also convicted in the Southern District of Florida on July 14, 1980, for narcotics violations. The narcotics conviction is currently pending appeal.

Investigative Agencies: FBI, ATF, DEA
Prosecuting Offices: Philadelphia and Miami Strike Forces

6) United States v. John Timperio, N.D. Ga.

On December 27, 1979, Timperio, former Secretary-Treasurer of HREU Local 151, was convicted of embezzlement of union funds used to pay for bogus salary and expenses to his common-law wife, Alice Haggerty Timperio, who had been employed as an HREU state organizer. He was sentenced to five years' imprisonment,

suspended, five years' probation, and restitution of $5,100. Alice Timperio was convicted of falsifying union records and was sentenced to probation for three years.

Investigative Agencies: FBI, Labor OIG
Prosecuting Office: Atlanta Field Office, Miami Strike Force

7) United States v. Nicholas Avenetti, et al., C.D. Cal.

On August 11, 1980, the Ninth Circuit Court of Appeals affirmed the conviction of Avenetti, William R. Wade, Carl E. Guerriero, and Harold Orbach for conspiracy to make unlawful payments to principals of employee benefit plans in order to obtain contracts for medical and vision care benefits. The investigation, worked undercover by the FBI, disclosed a scheme to bribe principals of HREU Local 11, Los Angeles, and Joint Council No. 9 of the Service Employees Union.

Investigative Agency: FBI
Prosecuting Office: Los Angelos Strike Force

PAPERWORKERS INTERNATIONAL UNION (PIU)

United States V. Joseph Tonelli, et al, E.D. N.Y.

Tonelli, former President of the Paperworkers International Union, and Henry Segal, former International Union Treasurer, were convicted in November 1978 for conducting the affairs of the PIU through a pattern of racketeering activity involving the embezzlement of approximately $360,000 of union funds. In a related case, Tonelli and Anthony Loicono, a former Vice-President of a New York PIU local union, were convicted of receiving kickbacks in connection with the use of PIU pension fund assets to purchase certificates of deposit from various banks.

Investigative agency: Labor OIG
Prosecuting office: Brooklyn Strike Force

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS

1. United States v. George Boylan, E.D.N.Y.

On November 19, 1979 Boylan, former business manager of Biolermakers Lodge 5, was sentenced to ten years' imprisonment following his conviction for racketeering, income tax violations, and receiving unlawful payments from employers. The case involved Boylan's receipt of over $1 million in cash during 1965 through 1976 from six contractor-employers in return for labor peace at power plant construction sites in the New York metropolitan area.

Investigative agency: IRS
Prosecuting office: Brooklyn Strike Force

2. United States v. Charles Crowley, D. N.J.

On July 21, 1980, Crowley, business agent of Biolermakers Lodge 28, Bayonne, N.J., was sentenced to six months' imprisonment and a $5,000 fine following his guilty plea to an income tax offense (29 U.S.C. 7206). He also consented to a RICO civil injunction forever barring him from union activity in connection with his receipt of unlawful payments from three construction-employers. One particular employer had paid Crowley from $10,000 to $25,000 per year between 1964 and 1979.

Investigative agencies: IRS, Labor OIG
Prosecuting office: Newark Strike Force

UNITED ASSOCIATION OF PLUMBERS AND PIPEFITTERS

1) United States v. Joseph Frye, et al., S.D. W. Va.
United States v. George Cunningham, S.D. W. Va.
United States v. Ben Patrick, et al., S.D. W. Va.

On December 23, 1980, Joseph Frye, former clerical employee and assistant to the business manager of Plumbers Local 521, Huntington, W. Va., was sentenced to serve six months' imprisonment and four and one-half years' probation following his guilty plea to conversion of union assets (29 U.S.C. 501(c)) and conspiracy to commit Hobbs Act extortion in connection with a scheme to extort approximately $280,000 from over 100 individuals in return for memberships in the Pipefitters Union. The court indicated at sentencing that a heavier sentence would have been imposed but for Frye's age and poor health. In some cases, Frye allegedly charged the prospective members as much as $3,350 for union membership applications in which he and co-defendant Thomas A. Richards, a Local 521 member, would supply false information as to the experience of the prospective members. The scheme also involved Frye's contacts with Pipefitters local unions in Texas from which the memberships were issued for a legitimate initiation fee, thereby permitting the victimized workers to work in the jurisdiction of the West Virginia local union or elsewhere. Richards was sentenced to a suspended three years' imprisonment and three years' probation.

This case follows the 1977 conviction of George Cunningham, former financial secretary of Pipefitters Local 625, Charleston, W. Va., in connection with a similar scheme to extort payments of $200-$300 from out-of-state job seekers, in return for job referral slips and work permits issued by the union, for work at a West Virginia power plant site. Ben Patrick, a pipefitter and former county sheriff in Kentucky, was also convicted in 1978 for conspiracy to extort in connection with a similar scheme involving Local 625 work referrals.

Investigative Agency: Labor LMSA
Prosecuting Office: U.S. Attorney's Office, Charleston, W. Va.

2) United States v. James O'Neill, E.D. Pa.

On February 3, 1978, O'Neill, a former business manager of Plumbers Local 690, Philadelphia, and campaign manager for former Philadelphia Mayor Rizzo, pleaded guilty in connection with a scheme to receive unlawful payments in return for Local 690 benefit plan loans. He was sentenced to six months' imprisonment, four and one-half years' probation, and a $50,000 fine.

Investigative Agency: FBI
Prosecuting Offices: Philadelphia Strike Force;
U.S. Attorney's Office, Philadelphia

INDEPENDENT UNIONS

1. United States v. LaChance, S.D.N.Y.

On June 26, 1980, Douglas LaChance, the President of the Newspaper and Mail Deliverers Union of Greater New York (NMDU), was sentenced to 12 years' imprisonment and a fine of $100,000. LaChance was convicted in May of conducting the affairs of the NMDU through a pattern of racketeering activity and extorting over $330,000 in cash payments from executives of newspaper delivery companies during the years he served as NMDU president, 1976 through 1980. LaChance was charged with extorting 1/2 cent per paper to allow newspaper delivery companies to distribute the City News, Daily Metro, and the Press, interim newspapers published during the New York City newspaper strike in the Fall of 1978. This netted him over $90,000. He was also charged with extorting the following sums: $99,000 to allow newspaper delivery companies to lay off NMDU drivers for economic reasons; over $50,000 to allow newspaper delivery companies to operate without fear of work stoppages, slowdowns and related union disruption; over $6,000 to allow certain newspaper delivery companies to avoid a strike in connection with the current collective bargaining agreement with the NMDU; over $11,000 to allow certain newspaper delivery companies to acquire other companies; and over $85,000 from a company that trucked the El Diario, New York's largest Spanish newspaper, from Connecticut where it was printed to New York for redistribution to dealers in the city.

The vulnerable position of the newspapers and delivery companies has made the union attractive as a target for organized crime. Advances in automation in newspaper production have made the NMDU increasingly important to the newspaper industry in New York. Now the truck drivers are in the best position to prevent distribution of newspapers or cripple a newspaper struck by another trade union. NMDU officials were prosecuted and jailed in the late 1950's on charges of extorting payments from newspaper delivery companies. Thereafter, the FBI began to develop evidence from informant sources about organized crime infiltration of the union. At the LaChance trial significant evidence was introduced to show that in his dealings with the newspaper and delivery companies, LaChance was advised and directed by organized crime. LaChance's conviction and 12-year jail sentence is considered significant.

The LaChance case also produced an important development in the enforcement of the Racketeer Influenced and Corrupt Organization statute, 18 U.S.C. §1962, 1963. At the time of LaChance's sentencing, the trial judge directed LaChance to forfeit his union office and imposed as a special condition of bail pending appeal that LaChance resign immediately as president of the NMDU. This procedure was then upheld by the United States Court of Appeals for the Second Circuit. It is anticipated that this precedent will allow federal officials to prevent convicted racketeers from retaining their interests in a racketeering enterprise until the exhaustion of all appeals. Defendant's petition for certiorari to the Supreme Court is currently pending.

Investigative Agency: FBI
Prosecuting Office: U.S. Attorney's Office, S.D.N.Y.

2. United States v. Bernard Tolkow, et al., E.D.N.Y.

In December, 1979, Howard Garfinkle and Bernard Tolkow pleaded guilty to conducting a kickback scheme in which Tolkow's union, Amalgamated Local 355 in New York City, lost almost $2 million. Garfinkle is a prominent real estate developer with homes in New York City, upstate New York, and Miami Beach, Florida. Among the holdings in his once vast real estate empire were the Eden Roc Hotel in Miami and luxury apartments in New York City, Florida and several other states. Tolkow is a founder, the secretary-treasurer and the dominant figure in Local 355, an independent union in Queens which represents more than 5,000 employees in the fuel oil delivery business and light manufacturing industries. In the 1950's the McClellan Committee characterized Local 355 as one of organzied crime's "paper locals" in New York.

During the years 1972 through 1975 Garfinkle obtained a series of loans totalling $3 million from the Local 355 Welfare and Pension Fund. Tolkow's position as a dominant trustee in the Fund enabled him to arrange authorization for the loans. Garfinkle and Tolkow devised a scheme to disguise the kickbacks Garfinkle made in return for the loans. Garfinkle had Tolkow invest money in four of his real estate ventures to make it appear that Tolkow was making legitimate investments. While the other investors in the Garfinkle ventures lost substantial amounts of money, Tolkow made a profit of over $150,000. While Tolkow was making his investments with Garfinkle, Garfinkle was

defaulting on most of his payments on the loans from the Fund. Eventually he repaid only $1 million of the $3 million he borrowed.

Garfinkle received a one-year sentence, six months to be served in prison and six months to be served on parole. Following his guilty plea to one count of giving kickbacks to Tolkow in violation of 18 U.S.C. 1954, he also agreed to pay $400,000 to Local 355's Welfare and Pension Fund. Tolkow was sentenced to three years' probation following his guilty plea to a violation of 18 U.S.C. 1027 for failure to disclose his interest in the Garfinkle real estate venture in the benefit plan's annual financial report which is required to be filed with the Department of Labor.

Investigative Agency: Labor OIG
Prosecuting Office: Brooklyn Strike Force

3. United States v. Philip Williams, N.D. Ohio

On October 6, 1978, Williams, former President of the Associated Trades and Craft Union, a construction union headquartered in Youngstown, Ohio, was convicted after his guilty plea to embezzlement of union funds and on income tax violations. The indictment had charged him with embezzlement of approximately $211,000. He was sentenced to imprisonment for one year and five years' probation.

Investigative Agency: Labor OIG
Prosecuting Office: Cleveland Strike Force

STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

CHAIRMAN OF THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

BEFORE THE LABOR SUBCOMMITTEE ON S. 336

MARCH 15, 1983

Mr. Chairman, I wish to thank you and the other members of the Labor Subcommittee for inviting me as Chairman of the Permanent Subcommittee on Investigations to appear and provide testimony on S. 336, "The Labor Management Racketeering Act of 1983".

During the two years of my chairmanship at PSI, we have spent a great deal of time and effort reviewing the operations of the Hotel Employees and Restaurant Employees International Unions (HEREIU). Although our work has not been completed, we have a ready seen examples of union officials at both the international and local level who have been indicted or convicted of crimes. In most cases these officials have continued to hold union office and receive union benefits. For instance, the former General Vice-President of HEREIU is currently serving a prison term for misuse of union funds but he still receives a salary exceeding $75,000 per year under a special life time services contract.

Other examples include the many individuals in the International Longshoremen's Association who have been convicted of numerous federal charges and still maintain their positions of power. We also have the recent case of Teamsters Union President Roy Lee Williams. Williams, together with his four co-defendants, was convicted of conspiracy to commit bribery, traveling interstate in the furtherance of a bribe and various charges of schemes to defraud the Teamsters Central States Pension Fund. Despite these convictions, however, neither Williams nor the two officials of the pension fund convicted with him will be forced to resign their positions with the union until all avenues of appeal have been exhausted.

This may be the most important reason for strengthening debarment laws—to assure the integrity of employee benefit plans, for instance, pension plans, medical and dental plans and severance pay plans. These are the plans that accumulate huge sums of money and are highly susceptible to thefts and unscrupulous loans and investments. S. 336 would prevent convicted individuals from controlling these funds, and would do so immediately upon conviction. I would point out that the Subcommittee on Investigations is currently reviewing selected dental plans within the Hotel Employees Union and hearings later this year should provide additional support for this legislation.

These sorts of cases should be prevented. This bill should have been enacted into law during the 97th Congress and

it is even more imperative that it become law during the 98th Congress. If it is not, rank and file union members will continue to be misrepresented and their dues and contributions will continue to be misused.

The time has come for Congress to take a decisive step in ridding the unions of the stranglehold imposed by criminal elements. The provisions of S. 336 which change the laws concerning debarment of union officials, criminal penalties, and the jurisdiction of the Department of Labor are needed, and they are needed now. I plan to do everything possible to ensure their enactment.

American Federation of Labor and Congress of Industrial Organizations

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Wm. W. Winpisinger
John DeConcini
William Konyha
Douglas A. Fraser
Barbara Hutchinson
Gerald W. McEntee

March 15, 1983

The Honorable Donald L. Nickles, Chairman
Subcommittee on Labor
Committee on Labor and Human Resources
United States Senate
713 Hart Building
Washington, D. C.

Dear Senator Nickles:

In the last Congress, I presented testimony to the Senate Permanent Subcommittee on Investigations setting out the principles that guide the American Federation of Labor and Congress of Industrial Organizations in evaluating proposals to strengthen the Taft-Hartley Act's prohibition on employer payments to union officials and the Landrum-Griffin Act's and ERISA's debarment provisions. Based on those principles, the Federation concluded that S. 1785 was, on balance, a constructive proposal that would advance the large interests of the trade union movement and worked with you, Mr. Chairman, and the bill's other prime sponsors — Senators Nunn, Hatch and Kennedy — to seek prompt Senate action on that measure and House action on a comparable companion measure.

The purpose of this letter is: to state that the AFL-CIO continues to adhere to the approach the Federation took in the last Congress; to pledge to work with you to accomplish the end sought in the last Congress, which proved impossible of accomplishment given the many other matters that required legislative attention; and to urge the Subcommittee to promptly report to the full committee S. 336, as introduced, which tracks the bill twice passed by the last Senate. I ask that this letter and my testimony of November 3, 1981 to the Senate Permanent Subcommittee on Investigations be made part of the record of this Subcommittee's hearings on S. 336.

Sincerely,

Lane Kirkland

President

STATEMENT OF LANE KIRKLAND, PRESIDENT,
AMERICAN FEDERATION OF LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NOVEMBER 3, 1981

Mr. Chairman, Senator Nunn, and Members of the Subcommittee:

My name is Lane Kirkland. I am the President of the American Federation of Labor and Congress of Industrial Organizations. My purpose in appearing before this subcommittee is to state that with only two narrow qualifications the AFL-CIO supports the enactment of S. 1785. We have concluded that, on balance, the bill furthers both the public interest and the best interests of the trade union movement.

We did not reach that judgment lightly.

S. 1785, as we understand it, provides in essence as follows: First, that an employer payment to a union representative of $1,000 or more and the receipt of such a payment, now made unlawful by ¢302 of the Taft-Hartley Act, shall henceforth be treated as a felony rather than a misdemeanor. Second, that the list of disqualifying crimes stated in the Landrum-Griffin Act and in ERISA shall be enlarged to include felonies that involve a breach of union or benefit fund trust. To use the proposed statutory language, conviction of a felony that "involves the misuse or abuse" of union or benefit fund office or employment would result in disqualification from union and benefit fund position. Third, that disqualification shall be as of the date of the trial court's judgment rather than as of the date that judgment becomes final with the proviso that an individual who appeals and prevails shall be paid his lost salary which has been held in escrow pending the appeal, and the disqualification lifted. Fourth, that the scope of disqualification shall be broadened to preclude the holding of any union or benefit fund position. And, fifth, that the period of disqualification shall be 10 years rather than 5 years.

Our canvass of the applicable law shows that the present Landrum-Griffin and ERISA disqualification provisions are substantially more stringent than those that apply to individuals who hold positions in other organizations. We accept with equanimity that evident inequality. The trade union movement's high purpose is to forward the best aspirations of working people.

Union office is a calling, not a business. The morals of the marketplace will not suffice. Those who enter that calling are, and should be, held to a higher

standard. If a person holding union office takes an employer payoff for a substandard contract, misuses the right to strike for his own benefit or pilfers from the union treasury, that person does not simply stain his own honor. He tarnishes the bright efforts of the scores of men and women who have labored to create and maintain organizations worthy of the members we are privileged to represent and of society's good judgment.

There is much in theory to be said for internal union discipline as the proper response to misconduct by union officers. Democracy requires free trade unions not state dominated unions. Thus, one of our paramount responsibilities is protecting our institutional autonomy. Permitting the government to set the terms of union office is a substantial threat to that autonomy. But, the interest in preventing government interference is not our only interest, nor is every threat to that interest of the same gravity.

Passage of the Landrum-Griffin Act marked a new stage in the federal government's regulation of unions. That Act granted the Labor and Justice Departments far-reaching authority to supervise internal union affairs. Not only is the applicable federal criminal law wide-ranging, it has been vigorously enforced. Thousands of hours and millions of taxpayer dollars have been spent looking into every aspect of union affairs. The FBI, the Justice Department, the United States Attorneys, the Strike Forces and the Labor Department have pushed both the laws I have enumerated and the investigatory powers those laws created to their very extremes. That has been true in Democratic and Republican Administrations alike.

Indeed, every national union at which a finger of suspicion has been pointed has been subjected to thorough grand jury investigation. Those investigations normally cover every book and record, every expenditure, every voucher or the lack thereof, every meeting, every trip, and every other aspect of the union's affairs. The federal prosecutorial forces have immense authority to get at the facts. That authority has been used without stint. I believe that such investigations have been repeated with regard to local unions.

For the past 20 years, the AFL-CIO has sought to orient itself to a course that takes proper account of the new order. The most perplexing problem has been whether we should attempt to run a full scale private law enforcement system parallel to that run by the federal government.

So long as there was little or no applicable law, we had a plain obligation to do the best we could in this regard, no matter what our doubts on the efficacy of our efforts; an obligation we strove to fulfill. But Congress' judgment to turn the full power of the federal investigators and prosecutors to defining, ferreting out and bringing to book wrongdoing by union officers has brought our own limitations into sharp focus.

We simply do not have the resources -- the trained manpower, the subpoena, the grand jury, the authority to uncover and punish perjury, the due process trial procedures that settle with authority questions of innocence and guilt and the effective sanctions to punish the guilty. We have learned through hard experience that the allegations of criminal wrongdoing everyone supposes to be well founded do not always stand up when all the facts are brought out. We have also learned that occasionally the union officer one would unhesitantly vouch for can suddenly plead guilty to a serious crime. Neither the adage that where there is smoke there is fire nor its converse -- that where there is no smoke there is no fire -- has proved a sound guide for our efforts at internal regulation.

The lesson we draw from the foregoing is the one that George Meany stated during the debate on the proposal eventually enacted as the Civil Rights Act of 1964. The question he addressed was whether Title VII of that Act should make unlawful discrimination by unions as well as discrimination by employers. His unequivocal answer was:

> The leadership of the AFL-CIO, and of the separate federations before merger, has been working ceaselessly to eliminate prejudices. *** We have come a long way in the last 20 years -- a long way farther, I might say, than any comparable organization, ***
>
> But we have said repeatedly that to finish the job we need the help of the U.S. Government.

We are idealists enough to wish there was no such need, but we are realists enough to know that in an imperfect world there are occasions that call for use of the criminal law. One such occasion is currupt action by union officers.

The trade union movement can only be strengthened by law enforcement that dislodges those with a criminal bent who may find a toehold in our structure. One of the benefits government provides is the protection of the law. As spokesman for organized labor the AFL-CIO asks for that protection, emphasizes that the trade union movement sees such protection as a benefit, and pledges its

cooperation in a joint endeavor with the federal government to maintain the hard-earned honor of our institutions.

It is simple enough to state support for good morals and opposition to wrongdoing. But we do not content ourselves with these easy pieties. The consequence of recognizing that the government has a legitimate police role to play is the obligation to support fair-minded legislation that provides the authorities the wherewithal to do the necessary job. We do not shrink from that obligation. I have already outlined S. 1785's provisions. By and large, the proposals fill recognized gaps in the present law and do so in a rational manner. The bill deserves and has the AFL-CIO's support.

By far the most problematic step S. 1785 takes is to provide that disqualification from union or benefit fund office or employment takes effect on the trial court's judgment that the defendant is guilty of one of the enumerated crimes rather than after the appeals from that judgment have run their course.

The Federal Reporter shows that such appeals may be meritous. And it is not a small matter for an individual who has over the years been a colleague in arms and who continues to maintain his innocence to be turned out of his position. But the disqualification issue is, we have come to believe, distinct from the ultimate issue of guilt or innocence. There is no infallible procedure for recapturing a past event and applying a general rule of conduct to the participants. Not even our elaborate system of appeals is foolproof.

Nonetheless, with full recognition of the perils, at a certain point the information available requires a prudent person to act. We cannot gainsay that a jury or trial court verdict, reached after a full trial, that the defendant is guilty of a serious crime —particularly of a crime involving a breach of union or benefit fund trust — is sufficiently reliable information to justify removal from union or benefit fund office. There is force in the contention that in determining how to act in the world of practical affairs such a verdict tilts the balance against the presumption of innocence.

This is a hard rule; one which may be unjust in particular applications and which raises troubling civil liberties issues. The alternative, however, raises even more troubling questions for the continued good health of the trade union movement. Torn as we are between these concerns, we believe that our obligation to the membership and the integrity of our organizations must be put first. The sponsor's decision to provide that the convicted defendant's salary will be held in escrow and paid to him if his appeal succeeds does tend to alleviate the harshest consequence of this suggested change in the law.

Before turning to the two aspects of S. 1785 that we question, I wish to note two points of concern that are related to, but are not caused by, the bill itself.

So that there is no misunderstanding, I wish to stress that we accept the most stringent regulation not because on a comparative basis there is a case for such regulation, but because the rules comport with our own sense of what is right. Human weaknesses and the corruption of the spirit are constants. The labor movement is not perfect, neither are those who serve it. The same may accurately be said of every other sector of our society and of their leadership. In this past Friday's New York Times, a page 1 headline stated "Head of Nassau College, 4 Others Indicted on Charges of Corruption," and a page 12 headline stated "Price Fraud Laid to Tulsa Oilman. Overcharges are Estimated at $2 Billion to $4 Billion on Violation of Controls." I could extend that list indefinitely.

Indeed, every measure shows that the integrity and the dedication of union officers, as a group, is superior to that of other groups. There are over 100 AFL-CIO national and international unions and over 50,000 local unions. With very rare exceptions the men and women who staff these organizations are of the highest character. They sometimes must operate in milieus in which it is not easy to maintain one's standards; there are communities and callings in which keeping to the straight and narrow is an heroic enterprise. It is no wonder that a few succumb to temptation.

I would be less than candid if I did not also stress that we approach any increase in federal prosecutorial power with trepidation. The criminal law is the government's most stringent power over the citizen; such power should be used in a fair and balanced manner, with due respect for the principles of free association. That is not what we in the trade union movement find. I am told that the laws regulating unions are being used to bring indictments based on the prosecutor's theory of what the union's constitutions should say or what types of expenditures union members should be permitted to authorize. Such approaches strain the law beyond wise, reasonable or intended limits.

There are several reasons, having nothing to do with the merits, that explain why the issue labeled "union corruption" or "labor racketeering" is treated in a manner that suggests that the law addressing the subject is inadequate or that the law is not being enforced.

First, the inference is fostered that wrongdoing by a union officer is not evidence of an individual's weakness but an attribute of the labor movement.

While bankers, businessmen, government officials and others are judged on their individual merits, union officers are judged according to the worst examples. I believe I speak for all my brothers and sisters when I say that I deeply resent being treated in that fashion. Corruption is always and inevitably individual, not institutional.

Second, there are politicians and businessmen who have no use for the labor movement because free, vigorous and aggressive unions threaten their privileged position or profits. These individuals seek to beat us about the head with any stick that is handy. They view wrongdoing by a union officer as a public relations opportunity and exploit it accordingly.

Third, there are law enforcement officials whose authority and budget depend on sustaining the illusion that the union movement is corrupt. That is a convenient allegation because it does not require proof in a court of law, but only repetition in Congressional budget hearings and in off-the-record session with journalists. So far as they are concerned, an investigation of a union that produces no evidence of wrongdoing is, by definition, a white-wash. By the same token, they feel a need to stretch the criminal law to cover what is at most a civil wrong so that they can justify their present authorizations. And, of course, by their definitions any wrongdoing, including an isolated larceny, is evidence of the influence of organized crime. In short, there are law enforcement authorities who have no sense of proportion or of limit.

Nonetheless, we are willing to run the risks entailed in broadening the present law as proposed in S. 1785. Failing to do so would be to tempt even graver risks. We do so in the hope that, in this instance, and contrary to the norm, the grant of greater power will induce a greater sense of responsibility in the exercise of power.

There are, as I have noted, two aspects of S. 1785 that we believe should be reconsidered. The first concerns the proposed amendment to Section 302 of the Taft-Hartley Act; the second is the proposal to increase the period of disqualification from five years to 10 years.

Section 302 goes considerably beyond the prohibition of employer "payoffs" to union officers. That provision also regulates, in detail, a myriad of perfectly proper transactions having principally to do with the financing of joint labor/management employee benefit funds. The web of rules that has emerged is both technical and complex and those rules are also in a constant state of flux. For

example, this term, thirty-five years after the provision became law, the Supreme Court will decide whether the District of Columbia Circuit Court of Appeals was correct in deciding that Section 302 sets limits on the pension eligibility rules employers and unions may set through collective bargaining. Plainly an error in making one's way through this legal labyrinth that has nothing to do with under-table employer payments, should not be treated as a felony. The intended scope of the bill in that regard is not clear. We would hope that the sponsors would include language that draws a rational line between the matters covered by Section 302 that are to be dealt with through the criminal law and those matters that are to be dealt with through the civil law.

We believe that the proposed uniform 10 year disqualification period goes too far. If it were certain that the provision would apply only to those who, on an objective measure, deserve the epithet "racketeer" there would be no cause for just concern. But that is not the case. We know that individuals who, in their youth and ignorance, commit a single serious offense and individuals who after years of honest work give in on one occasion to temptation, as well as individuals who commit numerous wrongs, will be affected. There are situations that come to my mind in which I would agree that a five year disqualification would be insufficient. But I suggest that both reason and human feeling support the view that there are also situations in which a ten year disqualification is too severe. It is, therefore, our view that the statute should provide a necessary measure of flexibility authorizing the trial judge on conviction of one of the enumerated crimes to set an appropriate disqualification period of not more than ten years.

Throughout organized labor's history, there have been racketeers who have sought to prey upon, and to misuse, unions for their own benefit. They are not part of the trade union movement. They are our natural enemies. With the help of Congress -- in particular this Subcommittee and the labor committees -- and of the law enforcement authorities, I am confident that we can succeed in keeping the trade union movement free of such corrupt influences.

American Farm Bureau Federation

WASHINGTON OFFICE
600 MARYLAND AVE., S.W.
SUITE 800
WASHINGTON, D.C. 20024
AREA CODE 202 - 484-2222

March 21, 1983

Honorable Don Nickles, Chairman
Labor Subcommittee of the
Senate Committee on Labor and Human Resources
A609 Immigration Building
Washington, DC 20510

Dear Mr. Chairman:

We are submitting the attached statement on behalf of the American Farm Bureau Federation regarding S. 336, the Labor Management Racketeering Act of 1983.

We appreciate the opportunity to present our views and request that our statement be made a part of the hearing record.

Respectfully,

John C. Datt
Secretary and Director
Washington Office

lh
Attachment
cc: Subcommittee Members

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
ON S. 336, THE LABOR MANAGEMENT RACKETEERING ACT OF 1983
TO THE LABOR SUBCOMMITTEE
OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

March 15, 1983

The American Farm Bureau Federation is the nation's largest organization of farmers and ranchers with a current membership of more than three million families in 48 states and Puerto Rico who reside and conduct business in more than 2,800 counties. Farm Bureau is a voluntary organization, financed entirely by dues paid on an annual basis by individual members, who include approximately three-fourths of those engaged in the production of agricultural commodities.

We commend Senator Nunn, Senator Nickles and the other sponsors of this bill for their efforts over several years to enact this legislation. We endorse this legislation and urge the Senate to pass it. We hope the House of Representatives will, during this session, give this legislation due consideration and move it to the floor for a vote.

Our understanding of the bill is that it seeks to put a stop to corruption within the labor movement by strengthening the Labor Management Relations Act, the Employee Retirement Income Security Act and the Labor Management Reporting and Disclosure Act (a) to make it a felony offense to buy labor peace; (b) to expand the list of positions in a labor union a person convicted of committing a disqualifying crime cannot hold; (c) to increase the penalties where corruption is uncovered in the operation of employee pension plans; and (d) to place clear responsibility on the Secretary of Labor to investigate labor union corruption and to take action to enforce the provisions of this bill.

Some members of Congress might wonder why the American Farm Bureau Federation has taken an interest in this legislation. Farm Bureau has always taken the position that farmers are citizens and taxpayers and as such have an interest in and are affected by all areas of public policy. The voting delegates of the member State Farm Bureaus, meeting in January at Dallas, adopted a broad range of policies related to labor unions and labor legislation, including expansion of legal approaches to reduce the abuse of power by labor unions and their officials.

Much of the impetus for this legislation arises from investigations over a period of several years relating to union corruption at the nation's ports. The extent to which union corruption affects the cost of loading ships becomes a matter of direct concern to agriculture. Agricultural exports constitute a major share of this nation's total export business and are a vital factor in our balance of trade. We are very much aware of the monopolistic situation that now prevails at the major ports. The very corruption this bill seeks to end arises from that monopoly power.

While this bill will not change that basic situation, it will at least make it possible to protect members of unions from corrupt union officials, and perhaps reduce the cost of that corruption, which is passed along to consumers as higher prices or back to producers of agricultural commodities in the form of a lower price.

Farm Bureau is currently engaged in continued legal actions to enjoin the International Longshoremen's Association from conducting its own embargoes against agricultural exports.

Over the past 50 years the Congress has enacted a series of laws that give labor unions certain exemptions, privileges and protections, particularly in the area of exercising monopoly power, and in legalizing mandatory membership through the negotiation of union shop contracts. It is not surprising that such a broad grant of monopoly power has resulted in abuse and corruption on the part of some union officials.

As a general principle, Farm Bureau is reluctant to endorse any legislation that extends the regulatory authority of the federal government because of our basic belief in limiting the scope and power of the central government.

In this instance, however, we take the position that since the Congress has seen fit to grant certain privileges and immunities to labor unions, and since the political and economic power of the labor movement affects agriculture and every segment of the economy, it would be irresponsible to ignore the consequences of the earlier actions.

The record is replete and incontrovertible as to the need for this legislation. The ties of union officials with mobsters, the corruption of pension funds, the payoffs to prevent strikes and other labor strife, the violence that has characterized union activities in too many instances, the specter of officials continuing on union payrolls while serving prison sentences, and the many other aspects of collusion and corruption that have been uncovered by committees of the Congress, by the Department of Labor, by the news media and others, leave little doubt that something needs to be done.

This legislation should not be considered a cure-all. It does not address the overall need to restore a balance of power between management and labor. It is an important step in at least reducing some of the abuse and corruption that has been taking place and should be enacted promptly.

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 22, 1983

Honorable Don Nickles
Chairman
Subcommittee on Labor
Committee on Labor and
Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

With further reference to your request for the names of union officials who would be barred from office if S. 336 were enacted, I am attaching a list compiled by the Department.

Let me make clear that the attached list is not all-inclusive as, for example, it does not encompass persons convicted of State offenses. The list does, however, reflect a major effort by the Department to provide the requested data and is based upon input received from numerous field offices.

Of course, I hope the attached information will be helpful.

Sincerely,

Robert A. McConnell
Assistant Attorney General

Enclosure

The following individuals are those identified who would be barred by Title 29, U.S. Code, Sections 504 or 1111, from holding office or employment but for their pending appeal:

Pascal DiJames, International President, Tile, Marble and Terrazzo Workers International.

Paul W. Gibson, Buiness Manager, Local 33, Roofers AFL-CIO.

Richard Green, Business Agent, Local 705, IBT.

Richard Bravieri, Business Agent, Local 705, IBT.

George Rodriguez, President, General Workers International Brotherhood.

Jesus Victor Rodriguez, Vice President, General Workers International Brotherhood.

Reyes Martinez, Accountant, General Workers International Brotherhood.

Jose Garza, Trustee, General Workers International Brotherhood.

Sammy Cozzo, Business Agent, Production Workers Union of Chicago and vicinity.

John Giardiello, Organizer, Local 767, Laborers AFL-CIO.

Salvatore Tricario, Organizer, Local 767, Laborers AFL-CIO.

Roy L. Williams, International President, IBT.

Thomas F. O'Malley, Trustee, IBT.

Andrew (Amos) Massa, Former Trustee, IBT.

Chester Liberatore, Business Manager, Local 310, Laborers AFL-CIO.

L. G. Moore, Regional Director, Operating Engineers, AFL-CIO.

Landon L. Williams, President, Longshoremen's Association, AFL-CIO (ILA).

Hector Rivera, Business Agent, Local 47, Musician's AFL-CIO.

Rene Bloch, Business Agent, Local 47, Musician's AFL-CIO.

Alva Dotson Bennett, Secretary/Treasurer, Local 911, IBT.

Michael Parker, Secretary/Treasurer, Local 502, Sheet Metal Workers AFL-CIO.

John Cody, President, Local 282, IBT.

George Barone, President, Local 1922, ILA.

William Wallace Boyle, Vice President and Secretary/ Tresurer, Local 1922, ILA.

James Vanderwyde, Office Manager, Local 1922, ILA.

Cleveland Turner, President, Local 1416, ILA.

Myles E. Billups, Sr., International Vice President, ILA; Vice President, ILA Atlantic Coast District Council; President, ILA Hampton Roads District Council; President, Local 1970, ILA.

Vincent Improto, Chief Executive Officer and Secretary/ Treasurer, Local 830, IBT.

Joseph Schaefferman, Vice President, Local 326, IBT.

The following are aggravated instances of convicted labor union officials that remained in office pending their appeal:

It should be noted that James M. Caporale, Secretary/ Treasurer, Laborers, Chicago District Council; John Giardiello, President, Local 767, Laborers; Alfred J. Pilotto, President, Local 5, Laborers; and Salvatore Tricario, Secretary/Treasurer, Local 767, Laborers, would be barred from holding union offices; however, they lost their union positions pursuant to a RICO

forfeiture that was not stayed by the court pending their appeal. Even though they forfeited their positions, Giardiello and Tricario have been reemployed by their local in positions other than those forfeited. Their new positions are listed above. But for their appeal, they would be precluded from holding their new offices.

Landon L. Williams, President, Local 1408, International Longshoremen's Association (ILA), AFL-CIO. For your information, during 1978, the FBI brought to bear an extortion case against two officials of United Trailer Services, Inc., Jacksonville, Florida, a then employer company of the ILA. The FBI developed information to the effect that these two officials of United Trailer Services, Inc., were forcing a small nonunion trailer washing company to make payoffs to the officials in order to wash trailers in the Port of Jacksonville. As a result of this case, the two officials entered into a plea agreement with the Government and provided testimony against Williams to whom they had made payoffs for labor peace in the Port of Jacksonville. As a result of their testimony, Williams was tried in Miami and subsequently found guilty on September 1, 1979, for violation of two counts of Title 18, U.S. Code, Section 1962 (d) and (c) (Racketeer Influenced and Corrupt Organizations), and two counts of Title 29, U.S. Code, Section 186 (Taft-Hartley Act). The investigation had been conducted as part of UNIRAC. On September 18, 1979, a hearing under the Racketeer Influenced and Corrupt Organizations Statute was held before a U.S. District Court Judge in the Southern District of Florida, Miami, Florida, and Williams was ordered to forfeit his position as international vice president of the ILA and his position as president of the local ILA in Jacksonville. On January 11, 1980, Williams was sentenced in Miami, Florida, by a U.S. District Court Judge to five years' incarceration and a $10,000 fine. Williams has not reported for imposition of sentence, nor has he forfeited his position as president of the local ILA in Jacksonville as of March 4, 1983. He has, however, apparently resigned his position as international vice president. In view of the fact that Williams remains in the Port of Jacksonville to this day, Government credibility in the area of labor racketeering has suffered considerably in that Government witnesses among employer companies and in the ILA have seen a powerful labor leader convicted of racketeering charges continue in his position for years thereafter. The considerable publicity involving the investigation in Jacksonville of a prominent labor leader involved in organized crime followed by a trial lasting over eight months, resulting in the conviction of the labor leader, was dampened considerably by the lack of swift judicial

action to remove this individual from office. Obviously, those employer companies who are believed to have made payoffs to Williams and may possibly continue to make such payoffs were not at all encouraged to either cease such payoffs or come forward to testify against Williams.

Myles E. Billups, Sr., International Vice President, ILA, was convicted in U.S. District Court for Hobbs Act violations, Interstate Transportation in Aid of Racketeering (ITAR), and Taft-Hartley violations. On August 28, 1981, he was sentenced to three years' custody of the Attorney General and $5,000 fine on the Hobbs Act charge, three years' custody (concurrent) plus $5,000 fine for ITAR, and two 3-year sentences (concurrent) on the Taft-Hartley charges plus an additional $5,000 fine on each Taft-Hartley violation. Despite being sentenced to prison some eighteen months ago, Billups is still a powerful figure on the Hampton Roads, Virginia, waterfront. Billups initially appealed his conviction to the Fourth Circuit Court of Appeals which eventually upheld the conviction. His case is currently under appeal to the Circuit Court of Appeals en banc. If his conviction is upheld, he will presumably petition the Supreme Court for certiorari.

Joseph Schaefferman, Vice President, Local 326, IBT, listed above, is an inmate at the Delaware State Correctional Facility, Smyrna, Delaware. The U.S. Attorney, District of Delaware, has moved under the provisions of Title 29, U.S. Code, Section 504, to remove Schaefferman from his union office. This has yet to be accomplished. Schaefferman was promoted from recording secretary, the office he held at the time of his conviction, to vice president as other officers were promoted following the conviction of Francis J. Sheeran and Sheeran's removal from office under the provisions of RICO.

National Association
of Manufacturers

FRANCIS M. LUNNIE, JR.
Assistant Vice President
Industrial Relations and
Director, Labor Relations

April 8, 1983

The Honorable Don Nickles
Chairman, Subcommittee on Labor
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The National Association of Manufacturers is pleased to submit this statement in support of S. 336, the Labor-Management Racketeering Act of 1983, and asks that it be incorporated into the hearing record.

The National Association of Manufacturers (NAM) is a voluntary business organization which represents more than 12,500 member companies, eighty percent of which are considered small- or medium-sized businesses. NAM members produce nearly 75 percent of the nation's manufactured goods and employ approximately 85 percent of all workers employed in manufacturing. The NAM is also affiliated with an additional 158,000 businesses through its Associations Department and the National Industrial Council.

As would be expected, given the broad base of NAM manufacturing membership, many collective bargaining agreements, which provide for fully or partially employer-funded pension and benefit plans, are negotiated and funded by NAM members. As a consequence, we have a keen interest in any legislation which is designed to protect these funds from abuse by corrupt fund administrators.

At the outset, NAM wishes to commend the sponsors of S. 336 and the Subcommittee for leadership in this area. By providing for the immediate removal from office of convicted fund administators and by strengthening the penalties for pension and benefit fund abuses, S. 336 would make a significant contribution toward ensuring that the nation's retired workers will be able to enjoy the well-deserved fruits of their labor.

The removal from office of fund administrators upon conviction of crimes relating to their official duties is a key step in protecting the pension funds of millions of workers. Convicted fund administrators, who have violated their fiduciary duty to current and future pension beneficiaries through mismanagement or misappropriation, should not be allowed to continue serving as pension fund officers or trustees.

1776 F Street, N.W.
Washington, D.C. 20006
(202) 626-3700

Likewise, we commend the strengthened penalties attendant upon conviction of officials for corrupt activity. Many workers rely on their pension fund to provide them with economic security in retirement and they deserve to feel confident that their pensions will be available when needed. Elevating violations of the Taft-Hartley Act, involving more than $1,000, to felony status and increasing the maximum fine and/or sentence upon conviction will serve to allay the fears of many workers and retirees. At the same time, it will deter and appropriately punish unlawful practices.

While strengthening the sanctions for pension and benefit fund abuse, S. 336 also protects the rights of erroneously convicted officials by providing for an escrow account to be established during the appeals process. Any salary which would have been paid to an official would thus be available if their conviction is overturned.

Another important section of S. 336 clarifies the Department of Labor's role in enforcing the provisions of the Employee Retirement Income Security Act (ERISA) and other federal laws. These statutes require extensive reporting and disclosure to be filed with the Department. This places the Department in the position of having access to very detailed information regarding the nation's pension funds. Section 5 of S. 336 clearly gives the Secretary the authority to detect, investigate, and refer civil and criminal violations of ERISA and other laws relating to the management of pension funds. This in no way usurps or interferes with any other federal agency's right or ability to investigate pension fund abuse. It merely enables the Department of Labor to participate fully in investigations and provide the factual information necessary for convictions. Taken together with the provisions mentioned above, S. 336 reflects a balanced accountability measure.

In closing, the NAM again wishes to express its appreciation for the opportunity to contribute to the Subcommittee's deliberations on this important issue. Should there be questions or further information required, please contact the undersigned.

Sincerely,

F. M. Lunnie Jr.

Francis M. Lunnie, Jr.
Assistant Vice President
Industrial Relations
National Association of
Manufacturers

Senator NICKLES. This subcommittee meeting will be adjourned.
[Whereupon, at 12:33 p.m., the subcommittee was adjourned.]

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